

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

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APPENDIX C TO PART 282—OTHER STATE PROVISIONS NOT INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

AUTHORITY: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

SOURCE: 58 FR 58625, Nov. 2, 1993, unless otherwise noted.

Subpart A—General Provisions

§ 282.1 Purpose and scope.

This part sets forth the applicable state underground storage tank programs under section 9004 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6991c and 40 CFR part 281. “State” is defined in 42 U.S.C. 1004(31) as “any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”

§ 282.2 Incorporation by reference.

- (a) Material listed as incorporated by reference in part 282 was approved for

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incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the FEDERAL REGISTER.

(b) Copies of materials incorporated by reference may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html. Copies of materials incorporated by reference may be obtained or inspected at the EPA UST Docket, located at 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202 (telephone number: 703-603-9231), or send mail to Mail Code 5305G, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and at the library of the appropriate Regional Office listed below:

(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.

(2) Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands): Federal Office Building, 26 Federal Plaza, New York, NY 10278.

(3) Region 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia): Four Penn Center, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103-2852; Phone Number: (215) 814-2738.

(4) Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee): 61 Forsyth Street SW, Atlanta, Georgia 30303-8960; Phone Number: (404) 562-9900.

(5) Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin): 77 West Jackson Boulevard, Chicago, IL 60604.

(6) Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas): 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102.

(7) Region 7 (Iowa, Kansas, Missouri, Nebraska): 11201 Renner Boulevard, Lenexa, Kansas 66219.

(8) Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah,

Wyoming): 999 18th Street, Denver, CO 80202-2405.

(9) Region 9 (Arizona, California, Hawaii, Nevada, Guam, American Samoa, Commonwealth of the Northern Mariana Islands): 75 Hawthorne Street, San Francisco, CA 94105.

(10) Region 10 (Alaska, Idaho, Oregon, Washington): 1200 Sixth Avenue, Seattle, WA 98101.

(c) For an informational listing of the state and local requirements incorporated in part 282, see appendix A to this part.

[58 FR 58625, Nov. 2, 1993, as amended at 69 FR 18803, Apr. 9, 2004; 76 FR 49674, Aug. 11, 2011; 78 FR 37978, June 25, 2013; 84 FR 44232, Aug. 23, 2019; 85 FR 56176, Sept. 11, 2020; 87 FR 42081, 42088, 42094, July 14, 2022; 89 FR 3358, Jan. 18, 2024]

§§ 282.3–282.49 [Reserved]

Subpart B—Approved State Programs

§ 282.50 Alabama State-Administered Program.

(a) *History of the approval of Alabama's Program.* The State of Alabama (Alabama or State) is approved to administer and enforce an underground storage tank (UST) 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 Underground Storage Tank Program (UST Program), as administered by the Alabama Department of Environmental Management (ADEM), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA approved the Alabama UST Program on January 24, 1997 and it was effective on March 25, 1997. A subsequent program revision was approved by EPA and became effective November 15, 2021.

(b) *Enforcement authority.* Alabama has primary responsibility for administering and enforcing its federally approved UST Program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and

6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Alabama must revise its approved UST 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 Alabama obtains approval for 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) *Final approval.* Alabama has final approval for the following elements of its UST Program submitted to EPA and approved effective March 25, 1997, and the program revisions approved by EPA effective on November 15, 2021:

(1) *State statutes and regulations—(i) Incorporation by reference.* The Alabama materials cited in this paragraph (d)(1)(i) and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may access copies of the Alabama statutes that are incorporated by reference in this paragraph (d)(1)(i) from the Alabama Legislative Services Agency, Alabama State House, Suite 613, 11 South Union Street, Montgomery, Alabama 36110-2400; Phone number: (334) 271-7700; website: <http://lsa.state.al.us>. You may access copies of the regulations that are incorporated by reference at the following website <http://www.alabamaadministrativecode.state.al.us>. You may inspect all approved material at EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562-9900; or the National Archives and Records Administration (NARA), email: fedreg.legal@nara.gov, website: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “Alabama Statutory Requirements Applicable to the Underground

Storage Tank Program,” dated March 21, 2021.

(B) “Alabama Regulatory Requirements Applicable to the Underground Storage Tank Program,” dated March 21, 2021.

(ii) *Legal basis.* EPA considered the following statutes and regulations which provide the legal basis for the State’s implementation of the UST Program, but they are not being incorporated by reference and do not replace Federal authorities, unless the provisions place requirements on regulated entities:

(A) Alabama Underground Storage Tank and Wellhead Protection Act of 1988, Ala. Code sections 22-36-1 to 22-36-10 (1988):

(1) Section 22-36-3—Rules and regulations governing underground storage tanks. Insofar as it provides specific authorities enabling compliance monitoring and enforcement response.

(2) Section 22-36-4—Information to be furnished by owner upon request of department; owner to permit access to records and entry and inspection of facilities. Insofar as it provides specific authorities enabling compliance monitoring.

(3) Section 22-36-6(b) and (c)—Expenditure of funds from Leaking Underground Storage Tank Trust Fund; investigative and corrective powers in regard to administration of funds; liability of owner or operator for costs. Insofar as it provides specific authorities enabling compliance monitoring.

(4) Section 22-36-8—Availability to public of records, reports, or information obtained under chapter. Insofar as it provides specific authorities enabling public participation and the sharing of information.

(5) Section 22-36-9—Penalties. Insofar as it provides specific authorities enabling enforcement response.

(B) Alabama Underground Storage Tank Control Regulations, Ala. Admin. Code r. 335-6-15-.01 to 335-6-15-.49 (2017):

(1) Rule 335-6-15-.13—Reporting and Recordkeeping. Insofar as it provides specific authorities enabling compliance monitoring.

(2) Rule 335-6-15-.19—Release Reporting and Recordkeeping. Insofar as it provides specific authorities enabling compliance monitoring.

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(3) Rule 335-6-15-.31—Public Participation. Insofar as it identifies specific authorities enabling public participation.

(4) Rule 335-6-15-.39—Availability To Public of Records, Reports or Information. Insofar as it provides specific authorities enabling the sharing of information.

(5) Rule 335-6-15-.40—Access To Records. Insofar as it provides specific authorities enabling compliance monitoring.

(6) Rule 335-6-15-.41—Entry and Inspection Of Facilities. Insofar as it provides specific authorities enabling compliance monitoring.

(7) Rule 335-6-15-.45—Delivery Prohibition. Insofar as it identifies specific authorities enabling enforcement response.

(C) Ala. Code section 22-22A-5(19)—Powers and functions of Department; representation of Department by Attorney General in legal actions. Insofar as it provides specific authorities enabling enforcement and public participation.

(D) Alabama Rules of Civil Procedure, Rule 24(a)—Intervention. Insofar as it provides for public participation in the State enforcement process.

(iii) Other provisions not incorporated by reference. The following statutory and regulatory provisions applicable to the Alabama UST Program are broader in scope than the Federal program or external to the state UST program approval requirements. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference herein:

(A) Alabama Underground Storage Tank and Wellhead Protection Act of 1988, Ala. Code sections 22-36-1 to 22-36-10 (1988):

(1) Section 22-36-5, insofar as it requires the collection of an underground storage tank fee.

(2) Section 22-36-6(a) is external insofar as it pertains to ADEM's implementation of the Leaking Underground Storage Tank Trust Fund.

(3) Section 22-36-7 is external insofar as it provides authority for the promulgation of regulations to establish and protect wellhead areas.

(4) Section 22-36-10 is external insofar as it places requirements on the pro-

mulgation of rules and regulations to be adopted by ADEM.

(B) Alabama Underground Storage Tank Control Regulations, Ala. Admin. Code r. 335-6-15-.01 to 335-6-15-.49 (2017):

(1) Rule 335-6-15-.01 is external insofar as it contains the State's public policy for regulating underground storage tanks.

(2) Rule 335-6-15-.32, insofar as it specifies analytical methods for soil and groundwater sampling.

(3) Rule 335-6-15-.38 is external insofar as it provides specific authority for ADEM to require an owner or operator to provide an alternate or temporary drinking water source.

(4) Rule 335-6-15-.42, insofar as it requires owners of underground storage tanks to pay an annual fee.

(5) Rule 335-6-15-.44 is external insofar as it is a reserved provision.

(6) Rule 335-6-15-.47, insofar as it imposes certification requirements on individuals who supervise installation, closure, and repair of underground storage tanks.

(7) Rule 335-6-15-.49 is external insofar as it relates to the severability of the underground storage tank requirements.

(C) Alabama Underground and Aboveground Storage Tank Trust Fund Act, Code of Alabama, Ala. Code sections 22-35-1 to 22-35-13 (1988). Insofar as it establishes procedures for administration of the Alabama Underground and Aboveground Storage Tank Trust Fund for purposes of paying response actions and third-party claims.

(D) Alabama Underground and Aboveground Storage Tank Trust Fund Regulations, Ala. Admin. Code r. 335-6-16-.01 to 335-6-16-.20 (2015). Insofar as it establishes procedures for determining eligibility for disbursements from the Alabama Underground and Aboveground Storage Tank Trust Fund for paying response actions and third-party claims.

(2) *Statement of legal authority.* The Attorney General's Statement, signed by the Alabama Attorney General on April 16, 2018, 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 Adequate Enforcement Procedures” submitted as part of the application on October 10, 2018, 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 application on October 10, 2018, 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 ADEM, signed by the EPA Regional Administrator on October 12, 2018, 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.*

[86 FR 51007, Sept. 14, 2021]

§§ 282.51–282.52 [Reserved]

§ 282.53 Arkansas State-Administered Program.

(a) *History of the approval of Arkansas’s program.* The State of Arkansas 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 Arkansas Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the Arkansas underground storage tank base program effective on November 16, 1990. A subsequent program revision application was approved effective on March 8, 2021.

(b) *Enforcement authority.* Arkansas has primary responsibility for administering and enforcing its federally-approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under Subtitle I of RCRA sec-

tions 9003(h), 9005 and 9006, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retaining program approval.* To retain program approval, Arkansas must revise its approved program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with RCRA section 9004, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Arkansas obtains approval for the revised requirements pursuant to RCRA section 9004, 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) *Final program approval.* Arkansas has final approval for the following elements of its program application originally submitted to EPA and approved effective November 16, 1990, and the program revision application approved by EPA effective on March 8, 2021:

(1) *State statutes and regulations—(i) Incorporation by reference.* The Arkansas 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.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Arkansas regulations that are incorporated by reference from the Arkansas Department of Environmental Quality (ADEQ) website at <http://www.adeq.state.ar.us/regs/default.htm> or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317; Phone number: (501) 682–0923. You may inspect all approved material at the EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270 (Phone number (214) 665–2239) or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “EPA-Approved Arkansas Regulatory Requirements Applicable to the Underground Storage Tank Program,” August 2020. Only those provisions that

have been approved by EPA are incorporated by reference. Those provisions are listed in Appendix A to part 282.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include: Arkansas Code Annotated (ACA), 2017 Title 8, Environmental Law:

(1) *Chapter 1 General Provisions:*

(i) *Subchapter 1 General Provisions*, section 8-1-107; and

(ii) *Subchapter 2 Powers of the Department and Commission*, section 8-1-202;

(2) *Chapter 4 Arkansas Water and Air Pollution Control Act:*

(i) *Subchapter 1 General Provisions*, sections 8-4-103(d)(1)(A) and 8-4-103(d)(3)(A) through (d)(4)(A); and

(ii) *Subchapter 2 Water Pollution*, section 8-4-224;

(3) *Chapter 7 Hazardous Substances:*

(i) *Subchapter 8 Regulated Substance Storage Tanks*, sections 8-7-801(2) through (14)(J); 8-7-802(a)(1); 8-7-802(b); 8-7-803 through 8-7-807; 8-7-809 through 8-7-812, 8-7-813 (except references to aboveground storage tanks [ASTs]); 8-7-814; 8-7-816; 8-7-817; and

(ii) *Subchapter 9 Petroleum Storage Tank Trust Fund Act*, section 8-7-909.

(B) The regulatory provisions include: Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 12 Storage Tanks, as amended effective August 24, 2018: Chapter 1 General Provisions, Reg. 12.110 Delivery Prohibition; Chapter 2 Registration of Storage Tanks, Reg. 12.201 Registration Requirement; Chapter 5 Licensing of Underground Storage Tank Installers and Service Personnel, Reg. 12.515; Chapter 6 Licensing of Underground Storage Tank Testers, Reg. 12.613 Violations; Chapter 7 Operator Training, Reg. 12.709 Violations and Reg. 12.710 Disclosure Exemption; and Chapter 8 Confidentiality Reg. 12.801 through Reg. 12.805.

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Arkansas underground storage tank program that 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) Arkansas Code Annotated (ACA), 2017, Title 8 Environmental Law: Chapter 7 Hazardous Substances, Subchapter 8 Regulated Substance Storage Tanks, sections 8-7-801(1) introductory paragraph through (1)(B), 8-7-802(a)(2), 8-7-808, 8-7-813 (as it applies to aboveground storage tanks [ASTs] only); and Subchapter 9 Petroleum Storage Tank Trust Fund Act, sections 8-7-901 through 8-7-908.

(B) Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 12 Storage Tanks, as amended effective August 24, 2018: Chapter 1 General Provisions, Reg. 12.107 Entry and Inspection of Aboveground Storage Tank Facilities; Chapter 2 Registration of Storage Tanks, Reg. 12.201(C) through (F) Registration Requirement, 12.202(B)(2) Certification of Registration (as it applies to fees only), 12.203 Storage Tank Registration Fees; Chapter 3 Petroleum Storage Tank Trust Fund Corrective Action Reimbursement Procedures; and Chapter 4 Petroleum Storage Tank Trust Fund Third-Party Payment Procedures.

(2) *Statement of legal authority.* The Attorney General's Statement, signed by the Assistant Attorney General of Arkansas September 21, 1994, and revisions to that Statement dated October 2, 2018, 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 "Adequate Enforcement of Compliance" submitted as part of the original application on September 26, 1994 and as part of the program revision application for approval on October 17, 2018, 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 September 26, 1994, and as part of the program revision application October 17, 2018, though not incorporated

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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 Arkansas Department of Environmental Quality, signed by the EPA Regional Administrator on May 8, 2019, 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.*

[86 FR 981, Jan. 7, 2021]

§ 282.54 [Reserved]

§ 282.55 Colorado State-Administered Program.

(a) The State of Colorado 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 Colorado Department of Environmental Quality (DEQ), Division of Environmental Response and Remediation (DERR), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA published the notice of final determination approving the Colorado underground storage tank base program effective on April 23, 2007. A subsequent program revision application was approved by EPA and became effective on July 19, 2019.

(b) Colorado has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under Sections 9003(h), 9005, and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Colorado 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 Colorado

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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) Colorado has final approval for the following elements of its program application originally submitted to the EPA and approved effective April 23, 2007, and the program revision application approved by the EPA effective on July 19, 2019:

(1) *State statutes and regulations*—(i) *Incorporation by reference*. The material cited in this paragraph (d)(1), 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 Colorado regulations and statutes that are incorporated by reference in this paragraph (d)(1) from Colorado's Secretary of State, 1700 Broadway, Denver, CO 80290; Attn: Code of Colorado Regulations and Administrative Rules; Phone number: (303) 894-2200 ext. 6418; email: rules@sos.state.co.us; website: <https://www.sos.state.co.us/CCR/Welcome.do>.

(A) "EPA-Approved Colorado Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program" dated February 2019.

(B) [Reserved]

(ii) *Legal basis*. The EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Colorado Revised Statutes (2018)*, Title 8 Labor and Industry, Article 20 Fuel Products: Sections 8–20–102(1), 8–20–104 except 8–20–104(4)(b) and (7), 8–20–209(1), 8–20–223.5(1) and (2), 8–20–228.

(2) *Colorado Revised Statutes (2018)*, Title 8 Labor and Industry, Article 20.5 Petroleum Underground Storage Tanks: Sections 8–20.5–101, except (2), (10)(a)(III), (16) and references to above-ground storage tanks (ASTs); 8–20.5–102; 8–20.5–105; 8–20.5–106; 8–20.5–107; 8–

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20.5–202(1), (1.5), (2), (3), and (4); 8–20.5–203; 8–20.5–204; 8–20.5–205; 8–20.5–206; 8–20.5–208; and 8–20.5–209.

(3) *Colorado Revised Statutes (2018)*, Title 24 Government—State Administration, Article 4 Rule-Making and Licensing Procedures by State Agencies: Section 24–4–105(2)(c).

(B) The regulatory provisions include:

(1) *Code of Colorado Regulations (May 1, 2018)*, 7 CCR 1101–14 “Department of Labor and Employment, Division of Oil and Public Safety, Storage Tank Regulations,” Article 6 Enforcement: Section 6–1 Enforcement Program; Subsections 6–1–1 Notice of Violation; 6–1–2 Enforcement Order; 6–1–3 Informal Conference; Section 6–2 Underground Storage Tank Delivery Prohibition Subsections 6–2–1 Criteria for Delivery Prohibition; 6–2–2 Red Tag Mechanisms Used to Identify Ineligible USTs; 6–2–3 Notification Processes for UST Owners/Operators and Product Deliverers; 6–2–4 Reclassifying Ineligible USTs as Eligible to Receive Product; 6–2–5 Delivery Prohibition Deferral in Rural and Remote Areas; 6–2–6 Delivery Prohibition Deferral in Emergency Situations; 6–2–7 Removal of Red Tag from Emergency Generator Tank Systems.

(2) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified statutes and rules applicable to the Colorado underground storage tank program that are broader in coverage than the Federal program, are not part of the approved program, and are not incorporated by reference in this part for enforcement purposes:

(A) *Code of Colorado Regulations (May 1, 2018)*, 7 CCR 1101–14 “Department of Labor and Employment, Division of Oil and Public Safety, Storage Tank Regulations”: Sections 1–5 “motor fuel”; 2–2–3(a); 2–2–3(j); and 2–3–7(d).

(B) *Colorado Revised Statutes (2018)*, Title 8 Labor and Industry, Article 20 Fuel Products: Sections 8–20–209(2), 8–20–212, 8–20–215, 8–20–218, 8–20–223.5(3), 8–20–230, and 8–20–231; Article 20.5 Petroleum Storage Tanks, Sections 8–20.5–102(3) and (4), and 8–20.5–207.

(2) *Statement of legal authority.* The Attorney General’s Statement, signed by the Attorney General of the State of Colorado Department of Law on De-

cember 7, 2001, and by the Assistant Attorney General on November 23, 2016, 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 November 13, 2002, and as part of the program revision application on November 1, 2016, 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 November 13, 2002, and as part of the program revision application on November 1, 2016, 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 8 and the Colorado Department of Labor and Employment, Division of Oil and Public Safety, signed by the EPA Regional Administrator on February 13, 2018, 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.*

[84 FR 22731, May 20, 2019]

§ 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

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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; 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; 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*

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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, are not part of the approved 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.*

[87 FR 42088, July 14, 2022]

§ 282.57 Delaware State-Administered Program.

(a) Delaware 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 Delaware's Department of Natural Resources and Environmental Control, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this chapter. EPA approved the Delaware underground storage tank program on September 27, 1996, and approval was effective on October 28, 1996. A subsequent program revision application was approved by EPA and became effective on September 12, 2022.

(b) Delaware 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, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Delaware 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 Delaware 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) Delaware has final approval for the following elements of its program application originally submitted to EPA and approved on September 27, 1996, and effective October 28, 1996, and the program revision application approved by EPA, effective on September 12, 2022.

(1) *State statutes and regulations*—(i) *Incorporation by reference*. The provisions cited in this paragraph, and listed in Appendix A to Part 282, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of Delaware's regulations and statutes that are incorporated by reference in this paragraph from DNREC Tanks Compliance Branch, 391 Lukens Sr. New Castle, DE 19720 or DNREC W&HS Compliance and Permitting Section, Richardson and Robbins Building, 89 Kings Highway, Dover, DE 19901.

(A) Delaware Statutory Requirements Applicable to the Underground Storage Tank Program, July 2019.

(B) Delaware Regulatory Requirements Applicable to the Underground Storage Tank Program, February 2021.

(ii) *Legal basis*. EPA evaluated the following statutes and regulations, which are part of the approved program, but which are not being incorporated by reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:

(1) Delaware Code, Title 7, Chapter 60, Sections: 6005; 6008; 6009; 6014; 6017; 6018; 6024.

(2) Delaware Code, Title 7, Chapter 74, Sections: 7406(e)(1)–(3), (f)–(j); 7408; 7411; 7412; 7419.

(3) Delaware Code, Title 29, Chapter 100, Sections: 10001–10007.

(B) The regulatory provisions include:

(1) Delaware Administrative Code, Title 7, Chapter 1351, Sections A-1.4; A-1.6; A-7.0; A-8.1.1; A-8.1.2; A-8.1.4; A-9.0; E-3.1.

(2) Delaware Rules of Court, Superior Court Rules of Civil Procedure, Del. Super. Ct. Civ. Rule 24 Intervention; Court of Chancery Rules, Del. Ct. Ch. Rule 24 Intervention.

(iii) *Provisions not incorporated by reference*. 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. These provisions are not federally enforceable:

(A) Delaware Code, Title 7, Chapter 74 Underground Storage Tank Act, Sections: 7401 insofar as regulates persons who are not owners or operators; 7402 definition of “responsible party” insofar as regulates persons who are not owners or operators of USTs; 7404 insofar as regulates agricultural and residential tanks of 1,100 gallons or less used for storing motor fuel for non-commercial purposes and tanks containing heating fuel for consumptive use on the premises where stored; 7405(a)(2) and (3) insofar as requires registration of tanks containing heating fuel for consumptive use on the premises where stored; 7406(a) through introductory paragraph of (e) insofar as regulates persons who are not owners or operators of USTs; 7409(c) insofar as requires registration fees; 7418; 7425(a), (b), (d), and (e); 7425(c) insofar as the use of certified individuals is required for activities other than installation and insofar as establishes a certification program.

(B) Delaware Administrative Code, Title 7, Chapter 1351 Underground Storage Tank Systems, Sections: A-1.2.1 insofar as regulates persons other than owners or operators, and insofar as regulates agricultural/farm and residential UST systems of 1,100 gallons or less used for storing motor fuels for non-commercial purposes, UST systems containing heating fuel of 1,100 gallons or less for consumptive use on the premises where stored, UST systems holding hazardous wastes listed or identified under Subtitle C of the SWDA or a mixture of such hazardous waste and other regulated substances,

wastewater treatment tank systems that are part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act, equipment and machinery containing regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks, UST systems with a capacity of 110 gallons or less, any emergency spill or overflow containment system expeditiously emptied after use, and insofar as provides no exception for USTs containing de minimis amounts of regulated substances; A-2.0 definition of “consumptive use” insofar as the term is limited to activities that do not result in monetary gain, “regulated substance” insofar as includes substances not regulated under the Federal program, and “responsible party” insofar as regulates persons other than owners or operators; A-3.1.10; A-3.3.8; A-4.1.4 insofar as requires fees; A-4.2; A-4.5.2 and -4.6.2 insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; A-4.7.1 and .2 insofar as requires Delaware to approve or deny construction work within fourteen days of receipt of notification form and construction plans; A-4.9.1 insofar as requires the posting of permits at the UST/construction site; A-10.1.1 insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; A-11.0 insofar as requires the presence of a certified individual for activities other than installation and insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; A-12.0 insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; B-1.1.8; B-1.3.2.4; B-1.21.1 insofar as regulates persons other than owners or operators; B-1.22.1 and .2 insofar as regulates persons other than owners or operators; B-1.29.7.1 insofar as regulates persons other than owners or operators; B-2.1.8; B-2.22.1 insofar as regulates persons other than owners or operators; B-2.23.1 and .2 insofar as regulates persons other than owners or operators; B-2.30.7.1 insofar as regulates persons other than owners or operators; B-4.2.1.3; B-5.2.1.3; Part C; D-1.3.2.4; D-1.21.1 insofar as regulates persons other than owners or operators;

D-1.22.1 and .2 insofar as regulates persons other than owners or operators; D-3.2.1.3; D-4.2.1.3; E-1.2, -1.3, -2.1, -2.2, and -2.4 insofar as regulates persons other than owners or operators; E-2.3.1 and -2.4.1.1 insofar as regulates consumptive use heating fuel UST systems for use on the premises; E-3.2, -3.3, -4.0, -5.0, and -6.0 insofar as regulates persons other than owners or operators; E-6.2.3 insofar as regulates consumptive use heating fuel UST systems for use on the premises; E-7.0; Part G; H-1.1.2.2 insofar as regulates consumptive use heating fuel UST systems for use on the premises; I-1.1.2.2 insofar as regulates consumptive use heating fuel UST systems for use on the premises.

(2) *Statement of legal authority.* “Attorney General’s Statement” signed by the Attorney General on October 12, 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.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Adequate Enforcement Procedures” submitted as part of the program revision application for approval on November 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 program revision application for approval on November 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 3 and Delaware Department of Natural Resources and Environmental Control, signed by the EPA Regional Administrator on March 22, 2019, 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.*

[87 FR 42094, July 14, 2022]

§ 282.58 District of Columbia State-Administered Program.

(a) The District of Columbia 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 District of Columbia's Department of Energy and Environment's predecessor agency, the Department of Consumer and Regulatory Affairs, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this chapter. EPA approved the District of Columbia underground storage tank program on July 9, 1997, and approval was effective on May 4, 1998. A subsequent program revision application was approved by EPA and became effective on March 28, 2022.

(b) The District of Columbia 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, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, the District of Columbia 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 the District of Columbia 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) The District of Columbia has final approval for the following elements of its program application originally submitted to EPA and approved on July 9, 1997, and effective May 4, 1998, and the program revision application approved by EPA, effective on March 28, 2022.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The provi-

sions cited in this paragraph, and listed in Appendix A to Part 282, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the District of Columbia's regulations and statutes that are incorporated by reference in this paragraph from District of Columbia's Underground Storage Tank Branch, Toxic Substances Division, Department of Energy and Environment, 1200 First Street NE, 5th Fl., Washington DC 20002 (phone number 202-535-2326). You may inspect all approved material at the EPA Region 3 office, 1650 Arch Street, Philadelphia, PA 19103-2029 (phone number 215-814-3348) or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fr.inspection@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “District of Columbia Statutory Requirements Applicable to the Underground Storage Tank Program,” March 1991.

(B) “District of Columbia Regulatory Requirements Applicable to the Underground Storage Tank Program,” February 2020.

(ii) *Legal basis.* EPA evaluated the following statutes and regulations, which are part of the approved program, but which are not being incorporated by reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:

(1) Code of the District of Columbia, Division I, Title 8, Subtitle A, Chapter 1, Subchapter VII, Underground Storage Tank Management Act, Sections: 8-113.04; 8-113.06(a); 8-113.07; 8-113.08; 8-113.09; 8-113.10; 8-113.12.

(2) Code of the District of Columbia, Division I, Title 8, Subtitle A, Chapter 1, Subchapter II, Water Pollution Control, Sections: 8-103.10(c); 8-103.20.

(3) Code of the District of Columbia, Division I, Title 8, Subtitle A, Chapter

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1A, Subchapter I, General, Sections: 8–151.07; 8–151.08(6).

(B) The regulatory provisions include:

(1) District of Columbia Municipal Regulations, Title 20, Chapters 55–67 and 70, Underground Storage Tank Regulations, Sections: 5501.1 as to regulated substance delivery person or company; 5601.7; 5800.3; 6300–6302; 6600–6605, including 6602.7 (Delivery Prohibition).

(2) District of Columbia Municipal Regulations, Title 16, Consumers, Commercial Practices, & Civil Infractions—Chapters 32 and 40; Chapter 32, Section 3201; Chapter 40, Section 4008.

(3) District of Columbia State Rules—Superior Court Rules of Civil Procedure—IV. Parties, Super. Ct. Civ. R. 24—Intervention.

(iii) *Provisions not incorporated by reference.* 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. These provisions are not federally enforceable:

(A) Code of the District of Columbia, Division I, Title 8, Subtitle A, Chapter 1, Subchapter VII, Underground Storage Tank Management, Sections: 8–113.01(7)(C) and (9)(A)(ii)–(v); 8–113.02(f) and (g) insofar as (g) includes persons who are not owners or operators of underground storage tanks; 8–113.03(a) insofar as includes persons who are not owners or operators of underground storage tanks; 8–113.06(b)–(d) as to fees.

(B) District of Columbia Municipal Regulations, Title 20, Chapters 55–67 and 70, Underground Storage Tank Regulations, Sections: 5500.1(c)–(d); 5500.2; 5501.1 as to persons who are not owners or operators of underground storage tanks; 5503.1–.2 insofar as regulates tanks that store heating oil for use on the premises where stored; 5504; 5600.1(b); 5601.1 insofar as regulates tanks that store heating oil for use on the premises where stored; 5601.2–.3 insofar as requires payment of fees; 5603.5 insofar as requires permits; 5604 insofar as includes persons who are not owners or operators of underground storage tanks, 5604.3–.4; 5605; 5606; 5700.4, .7, and .8(b); 5703; 5706.1 insofar as requires

compliance with District fire code; 5900.1–.3, .7, as to “agent in charge,” .10 as to “responsible party; 5904.5; 6003.4; 6100.4; 6202.2; 6210.8 insofar as requires permits; 6212; 6500.1–.4, .6–.10; 6501; 7099.1 as to the definitions of “agent in charge,” “authorized agent,” “voluntary remediating party,” and “voluntary remediation,” and the definitions of “real property owner” and “responsible party” insofar as each definition includes persons who are not owners or operators of underground storage tanks.

(2) *Statement of legal authority.* “Attorney General’s Statement” signed by the Attorney General on September 18, 2020, 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 Adequate Enforcement Procedures” submitted as part of the program revision application for approval on November 12, 2020, 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 program revision application for approval on November 12, 2020, 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 3 and the District of Columbia Department of Energy and the Environment, signed by the EPA Regional Administrator on November 25, 2018, 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.*

[87 FR 4164, Jan. 27, 2022]

§ 282.59 [Reserved]

§ 282.60 Georgia State-Administered Program.

(a) *History of the approval of Georgia's Program.* The State of Georgia 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 Georgia Department of Natural Resources, Environmental Protection Division, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Georgia program on May 10, 1991 and it was effective on July 9, 1991. A subsequent program revision was approved by EPA and became effective on February 14, 2020.

(b) *Enforcement authority.* Georgia has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Georgia 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 Georgia obtains approval for 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) *Final approval.* Georgia has final approval for the following elements of its underground storage tank program originally submitted to EPA and approved effective July 9, 1991, and the program revisions approved by EPA effective on February 14, 2020.

(1) *State statutes and regulations—(i) Incorporation by reference.* The Georgia

materials cited in this paragraph, and listed in appendix A to part 282, are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the FEDERAL REGISTER approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Georgia statutes that are incorporated by reference in this paragraph from LexisNexis, Attn: Official Code of Georgia Annotated, 701 East Water Street, Charlottesville, VA 22902-5389; Phone number: 1-800-833-9844; website: http://sos.ga.gov/index.php/elections/georgia_code_lexisnexis. You may obtain copies of the Georgia regulations that are incorporated by reference in this paragraph from the Administrative Procedures Division, Office of the Georgia Secretary of State, 5800 Jonesboro Road, Morrow, Georgia 30260; Phone number: (678) 364-3785; website: <http://rules.sos.ga.gov/gac/391-3-15>. You may inspect all approved material at the EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562-9900; or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

(A) “Georgia Statutory Requirements Applicable to the UST Program”, dated August 2019.

(B) “Georgia Regulatory Requirements Applicable to the UST Program”, dated August 2019.

(ii) *Legal basis.* The EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace federal authorities:

(A) *Official Code of Georgia Annotated (2017), Title 12.* “Conservation and Natural Resources,” Chapter 13, “Georgia Underground Storage Tank Act”: Sections 12-13-5; 12-13-6; 12-13-8; 12-13-11(a) and (f); 12-13-14 through 12-13-17; and 12-13-19 through 12-13-22.

(B) *Rules and Regulations of the State of Georgia (November 6, 2017), Department 391.* “Rules of the Georgia Department

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of Natural Resources,” Chapter 3, “Environmental Protection,” Subject 15, “Underground Storage Tank Management”: Sections 391-3-15-.01(2) and 391-3-15-.14.

(iii) *Other Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Georgia underground storage tank program that are broader in scope than the federal program or external to the state UST program approval requirements are not part of the approved program, and are not incorporated by reference herein:

(A) *Official Code of Georgia Annotated (2017), Title 12: “Conservation and Natural Resources,” Chapter 13, “Georgia Underground Storage Tank Act”:* Sections 12-13-3(8) and (16); 12-13-7; 12-13-9(d) through (i); 12-13-10; 12-13-11(b) through (e); 12-13-12; 12-13-13(e), and 12-13-18.

(B) *Rules and Regulations of the State of Georgia (November 6, 2017), Department 391: “Rules of the Georgia Department of Natural Resources,” Chapter 3, “Environmental Protection,” Subject 15, “Underground Storage Tank Management”:* Sections 391-3-15-.01(1); 391-3-15-.03(1)(a), (g), (i), and (p) through (r); 391-3-15-.04; 391-3-15-.05(4); 391-3-15-.09(5) and (7); 391-15-3-.12(3); 391-3-15-.13; and 391-3-15-.15.

(2) *Statement of legal authority.* The Attorney General’s Statement, signed by the Attorney General on June 12, 2018, 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 Georgia’s application on August 8, 2018, 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 submitted as part of Georgia’s application on August 8, 2018, 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.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the Georgia Environmental Protection Division, signed by EPA Regional Administrator on October 12, 2018, 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.*

[85 FR 8474, Feb. 14, 2020]

§ 282.61 Hawaii State-Administered Program.

(a) The State of Hawaii’s underground storage tank program is approved in lieu of the Federal program in accordance with 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 Hawaii Department of Health, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Hawaii underground storage tank program on September 25, 2002, and approval was effective on September 30, 2002.

(b) Hawaii has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, Hawaii must revise its approved program to adopt new changes to the Federal Subtitle I program that make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Hawaii 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) Hawaii has final approval for the following elements submitted to EPA in the State’s program application for final approval. On September 25, 2002, EPA published a rule approving the

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State's program in the FEDERAL REGISTER, 67 FR 60161. That approval became effective on September 30, 2002. Copies of Hawaii's program application may be obtained from the Hawaii Department of Health, Solid and Hazardous Waste Branch, 919 Ala Moana Boulevard, Suite 212, Honolulu, HI 96814.

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

(A) Hawaii Statutory Requirements Applicable to the Underground Storage Tank Program, 2001.

(B) Hawaii Regulatory Requirements Applicable to the Underground Storage Tank Program, 2001.

(ii) EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include of the Hawaii Revised Statutes:

(1) Hawaii Revised Statutes, Chapter 342L, Underground Storage Tanks.

Section 342L-1 Definitions (insofar as "complaint" sets forth enforcement authorities)

Section 342L-2 Administration

Section 342L-3 Powers; rulemaking; appointment of hearings officers

Section 342L-7 Authority to obtain information and data, inspect, and require and conduct activities; penalties for disclosure

Section 342L-8 Enforcement

Section 342L-9 Emergency powers; procedures

Section 342L-10 Penalties

Section 342L-11 Administrative penalties

Section 342L-12 Injunctive relief

Section 342L-12.5 Intervention

Section 342L-13 Appeal

Section 342L-15 Public records; confidential information

Section 342L-17 Other action not barred

Section 342L-18 Enforcement by state and county authorities

Section 342L-19 Other powers of department not affected

Section 342L-20 Effect of laws, ordinances, and rules

Section 342L-21 Priority in courts

Section 342L-30 Notification requirements (insofar as paragraph (i) of this section grants the Department authority to assess penalties for noncompliance)

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Section 342L-51 Leaking underground storage tank fund

Section 342L-52 Response to suspected or confirmed releases (insofar as it sets forth enforcement authorities)

Section 342L-53 Cost recovery

(2) Hawaii Revised Statutes, Chapter 342D, Water Pollution.

Section 342D-8 Inspection of premises

Section 342D-9 Enforcement

Section 342D-10 Emergency powers; procedures

Section 342D-11 Injunctive relief

Section 342D-12 Appeal

Section 342D-14 Public records; confidential information; penalties

Section 342D-30 Civil penalties

Section 342D-31 Administrative penalties

Section 342D-32 Negligent violations

Section 342D-33 Knowing violations

Section 342D-34 Knowing endangerment

Section 342D-35 False statements

Section 342D-36 Treatment of single operational upset

Section 342D-37 Responsible corporate officer as "person"

Section 342D-39 Disposition of collected fines and penalties

Section 342D-52 Testing of water and aquatic and other life

(3) Hawaii Revised Statutes, Chapter 128D, Environmental Response Law.

Section 128D-4 State response authorities; uses of fund (insofar as it sets forth enforcement authorities for certain corrective actions)

(B) The regulatory provisions include; Hawaii Administrative Rules, Chapter 11-281, Underground Storage Tanks:

Section 11-281-03 Definitions (insofar as "complaint" sets forth enforcement authorities; and insofar as "field citation" and "force majeure" relate to the Department's enforcement authorities)

Section 11-281-80 Public participation for corrective action plans (insofar as paragraph (j) of this section sets forth enforcement authorities)

Section 11-281-121 Purpose

Section 11-281-122 Applicability

Section 11-281-123 Issuance and contents of a field citation

Section 11-281-124 Notice of citation

Section 11-281-125 Field citation order and settlement agreement

Section 11-281-126 Correcting violations; paying the settlement amount; and signing the settlement agreement

Section 11-281-127 Method of payment

Section 11-281-128 Field citation penalty amounts for settlement

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Section 11-281-131 Appendices VII and VIII (insofar as they relate to the Department's field citation program)

(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. These provisions are not federally enforceable.

(A) The statutory provisions include; Hawaii Revised Statutes, Chapter 342L, Underground Storage Tanks:

Section 342L-1 Definitions ("owner" insofar as it includes persons who hold indicia of ownership to protect an interest in a tank system; "permit" insofar as it sets forth a permitting program; and "regulated substance" insofar as it includes other substances as designated by the Department)

Section 342L-4 Permits; procedures for (insofar as it establishes a permitting program)

Section 342L-5 Variances allowed (insofar as variances exceed the scope of the federal program)

Section 342L-6 Variances; procedures for (insofar as variances exceed the scope of the federal program)

Section 342L-14 Fees (insofar as it grants the director authority to establish fees for registering underground storage tanks)

Section 342L-16 Non-liability of department personnel (insofar as it was specifically not authorized in the FEDERAL REGISTER notice of program approval)

Section 342L-23 Directory of underground storage tank service providers (insofar as it was specifically not authorized in the FEDERAL REGISTER notice of program approval)

Section 342L-31 Permit requirements and transfer of permit (insofar as it requires owners and operators to obtain permits to install or operate UST systems)

Section 342L-50 Definitions (insofar as the definition of "owner" defines lenders as operators and subjects such lenders to requirements other than the corrective action requirements)

(B) The regulatory provisions include the following sections of Hawaii Administrative Rules, Chapter 11-281, Underground Storage Tanks:

Section 11-281-03 Definitions ("farm tank" insofar as it regulates tanks on farms that are not used for farm or commercial purposes; "regulated substance" insofar as the Department can designate other substances; "reportable quantity" insofar as it sets forth a reporting threshold of 10 lbs. for trichloropropane;

and "underground storage tank" insofar as its designation of farm tanks exceeds the scope of the federal regulations)

Section 11-281-23 Permit required (insofar as it relates to the permitting program)

Section 11-281-24 Application for a permit (insofar as paragraphs (a), (b), (c)(3), and (c)(4) of this section relate to the permitting program)

Section 11-281-25 Permit (insofar as paragraphs (a) and (b) of this section relate to the permitting program)

Section 11-281-26 Permit renewals (insofar as it relates to the permitting program)

Section 11-281-27 Action on and timely approval of an application for a permit (insofar as it relates to the permitting program)

Section 11-281-28 Permit conditions (insofar as it relates to the permitting program)

Section 11-281-29 Modification of permit and notice of change (insofar as it relates to the permitting program)

Section 11-281-30 Revocation or suspension of permit (insofar as it relates to the permitting program)

Section 11-281-31 Change in owner or operator for a permit (insofar as it relates to the permitting program)

Section 11-281-32 Variances allowed (insofar as variances exceed the scope of the federal program)

Section 11-281-33 Variance applications (insofar as variances exceed the scope of the federal program)

Section 11-281-34 Maintenance of permit or variance (insofar as it relates to the permitting program)

Section 11-281-35 Fees (insofar as it establishes registration fees)

Section 11-281-45 Reporting and record-keeping (insofar as paragraph (b)(3) of this section addresses posting of signs; and paragraph (c)(6) of this section requires maintenance of permit records)

Section 11-281-73 Posting of signs (insofar as there is no analogous provision in the federal regulations)

Section 11-281-131 Appendices II, IV, V, and VI of this section (insofar as they address permit application and transfer procedures and variances)

(2) *Statement of legal authority.* (i) "Attorney General's Statement," signed by the State Attorney General on October 12, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Hawaii to EPA, October 12, 2000, though not incorporated by reference,

is referenced as part of the approved underground storage tank program in accordance with 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 May 23, 2001, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with 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 May 23, 2001, though not incorporated by reference, are referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 9 and the Hawaii Department of Health, signed by the EPA Regional Administrator on September 13, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[73 FR 53744, Sept. 17, 2008]

§ 282.62 Idaho State-Administered Program.

(a) *History of the approval of Idaho’s Program.* The State of Idaho 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 Idaho Department of Environmental Quality (DEQ), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the Idaho underground storage tank base program effective on February 28, 2012. A subsequent program revision application was approved by EPA and became effective on March 10, 2020.

(b) *Enforcement authority.* Idaho has primary responsibility for admin-

istering and enforcing its federally-approved underground storage tank program. However, the EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Idaho 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 Idaho 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) *Final approval.* Idaho has final approval for the following elements of its program application originally submitted to EPA and approved, effective February 28, 2012, and the program revision application approved by EPA effective on March 10, 2020:

(1) *State statutes and regulations—(i) Incorporation by reference.* The materials cited in this paragraph (d)(1) are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Idaho provisions that are incorporated by reference in this paragraph (d)(1)(i) from Idaho’s Office of Administrative Rules Coordinator, P.O. Box 83720, Boise, Idaho 83720; Phone number: 208-332-1820; website: <https://adminrules.idaho.gov/>. You may inspect all approved material at the EPA Region 10 office, 1200 Sixth Avenue, Seattle, Washington 98101, phone number (206) 553-6693, or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/abbreviations>.

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(A) Idaho Statutory Requirements Applicable to the Underground Storage Tank Program, September 2018.

(B) Idaho Regulatory Requirements Applicable to the Underground Storage Tank Program, September 2018.

(ii) *Legal basis.* The EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Idaho Code*, Title 39, "Health and Safety," Chapter 1, "Environmental Quality—Health," Sections 39-108 and -109.

(2) *Idaho Code*, Title 39, "Healthy and Safety," Chapter 88, "Idaho Underground Storage Tank Act." The following Sections are part of the approved State program, although not incorporated by reference in this part for enforcement purposes: Sections 39-8805, -8808, -8810, and -8811.

(B) The regulatory provisions include:

(1) *Idaho Administrative Code* 58 (April 1, 2018), Title 01, Chapter 02, "Water Quality Standards," Sections 851 and 852.

(2) *Idaho Administrative Code* 58 (April 1, 2018), Title 01, Chapter 07, "Rules Regulating Underground Storage Tank Systems." The following Sections are part of the approved State program, although not incorporated by reference in this part for enforcement purposes: Sections 004.01, 400.01 and .03, 500, and 600.

(3) *Idaho Rules of Civil Procedure*, Rule 24(a).

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Idaho underground storage tank program that are broader in coverage than the Federal program, are not part of the approved program, and are not incorporated by reference in this part for enforcement purposes:

(A) *Idaho Administrative Code* 58 (April 1, 2018), Title 01, Chapter 07, "Rules Regulating Underground Storage Tank Systems," Sections 010.16, 100.01 and .03, 200, 600, and 601.

(B) [Reserved]

(2) *Statement of legal authority.* The Attorney General's Statement, signed by the Deputy Attorney General of the State of Idaho on August 23, 2018, 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 program revision application for approval on September 19, 2018, 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 program revision application for approval on September 19, 2018, 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 10 and the Idaho Department of Environmental Quality, signed by the EPA Regional Administrator on March 19, 2019, 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.*

[85 FR 1281, Jan. 10, 2020]

§§ 282.63–282.64 [Reserved]

§ 282.65 Iowa State-Administered Program.

(a) The State of Iowa 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 Iowa Department of Natural Resources, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Iowa program on March 7, 1995 and it was effective on May 8, 1995.

(b) Iowa 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, Iowa 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 Iowa 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) Iowa has final approval for the following elements submitted to EPA in Iowa's program application for final approval and approved by EPA on March 7, 1995. Copies may be obtained from the Underground Storage Tank Program, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa, 50319.

(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) Iowa Statutory Requirements Applicable to the Underground Storage Tank Program, 1994

(B) Iowa Regulatory Requirements Applicable to the Underground Storage Tank Program, 1994

(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: Code of Iowa, Chapter 455B, Sections 103(4), 109, 111, 112, 475, 476, 477 and 478.

(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) Code of Iowa, Chapter 455B, Sections 113, 114 and 115 insofar as they

apply to certified laboratories; 479 insofar as it applies to account dispersion; Chapter 455G, Sections 1-20 insofar as they apply to the comprehensive petroleum underground storage tank fund.

(B) Iowa Administrative Code, Rule 567, Chapter 134.1-5 insofar as they apply to the registration of groundwater professionals; 135.3(4) insofar as it applies to farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Iowa on December 22, 1993, 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 Iowa to EPA, dated December 22, 1993, 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 in March of 1994, 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 March 1994, 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 7 and the Iowa Department of Natural Resources, signed by the EPA Regional Administrator on June 22, 1994, 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.*

[60 FR 12632, Mar. 7, 1995]

§ 282.66 Kansas State-Administered Program.

(a) *History of the approval of Kansas's program.* The State of Kansas 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 Kansas Department of Health and Environment, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Kansas program on June 6, 1994, and it was effective on July 6, 1994. A subsequent program revision application was approved by EPA and became effective on November 1, 2021.

(b) *Enforcement authority.* Kansas 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) *Retaining program approval.* To retain program approval, Kansas 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 Kansas 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) *Final program approval.* Kansas has final approval for the following elements of its program application originally submitted to EPA and approved on June 6, 1994 and effective July 6, 1994, and the program revision application approved by EPA, effective on November 1, 2021.

(1) *State statutes and regulations—(i) Incorporation by reference.* The provisions cited in this paragraph, and listed in Appendix A to Part 282, are incorporated by reference as part of the un-

derground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Kansas regulations and statutes that are incorporated by reference in this paragraph from the Kansas Department of Health and Environment website at: www.kdheks.gov/tanks/regs.html or the KDHE Storage Tank Section, 1000 SW Jackson, Suite 410, Topeka, KS 66612; Phone number: (785) 296-1678. You may inspect all approved material at the EPA Region 7 Office, 11201 Renner Boulevard, Lenexa, KS 66219; Phone Number: (913) 551-7355; or the National Archives and Records Administration (NARA), Email: fedreg.legal@nara.gov, website: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) EPA-Approved Kansas Statutory Requirements Applicable to the Underground Storage Tank Program, July 2015.

(B) EPA-Approved Kansas Regulatory Requirements Applicable to the Underground Storage Tank Program, July 2020.

(ii) *Legal basis.* EPA evaluated the following statutes, which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference for enforcement purposes and do not replace Federal authorities: Kansas Statutes Annotated, Chapter 65, Public Health, Article 34, Kansas Storage Tank Act, Sections: 108—Enforcement of act: Duties of owner or operator; records, reports, documents, other information; 109—Unlawful acts: penalties; and 113—Civil penalties and remedies for violations.

(iii) *Provisions not incorporated by reference.* 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 in this section for enforcement purposes:

(A) Kansas Statutes Annotated, Chapter 65, Public Health, Article 34, Kansas Storage Tank Act, Sections: 105(a)(2) and 105(a)(13) as they apply to aboveground storage tanks; 105(a)(8) as it applies to tank tightness tester

qualifications; 105(a)(10) as it applies to registration and permit fees; 105(a)(11) and 105(a)(12) as they apply to licensing tank installers and/or contractors and fees for these licenses; 106 as it applies to aboveground storage tanks and permits to construct, install, or modify storage tanks; 110 as it applies to licensing tank installers and contractors; 111 as it applies to suspension of licenses; 112 as it applies to agreements between secretary and local governments; 114 as it applies to the underground petroleum storage tank release trust fund; 117 as it applies to the environmental assurance fee; 118 as it applies to corrective action for aboveground storage tanks; 119–125 as they apply to the petroleum storage tank release trust funds; 126 and 127 as they apply to the third party liability insurance plan; 128 as it applies to the storage tank fee fund; 129 and 130 as they apply to the aboveground petroleum storage tank release trust fund; 131–134 and 139 as they apply to the UST redevelopment fund.

(B) Kansas Department of Health and Environment Permanent Administrative Regulations, Chapter 28, Article 44, Petroleum Products Storage Tanks, Sections: 12(c) as it applies to the suspension and revocation of licenses; 12(d) as it applies to fee payments; 15 as it applies to underground storage tank installation or modification permits and the fees for these permits; 17(b)–(f) as they apply to the fees for underground storage tank registration and annual operating permits and the associated penalties; 18 as it applies to registration of non-regulated underground storage tanks; 20–22 as they apply to licensing underground storage tank contractors, installers, testers, and removers, fees for these licenses, and the suspension or revocation of tester licenses; 29 as it applies to aboveground storage tanks.

(2) *Statement of legal authority.* The “Attorney General’s Letter of Certification”, signed by the Kansas Attorney General on August 23, 1993, and December 4, 2020, 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 Adequate Enforcement Procedures” submitted as part of the original application on July 2, 1992, and as part of the program revision application on February 11, 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 on July 2, 1992, and as part of the program revision application on February 11, 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 7 and the Kansas Department of Health and Environment, signed by the EPA Regional Administrator on March 25, 2019, 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.*

[86 FR 49257, Sept. 2, 2021]

§ 282.67 Kentucky State-Administered Program.

(a) *History of the approval of Kentucky’s UST Program.* The Commonwealth of Kentucky (Commonwealth or Kentucky) is approved to administer and enforce an underground storage tank (UST) 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 UST Program, as administered by the Kentucky Department for Environmental Protection (KDEP), was approved by the EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the Kentucky UST Program on September 16, 2020, and that approval became effective immediately.

(b) *Enforcement authority.* Kentucky has primary responsibility for enforcing its UST Program. However, the EPA retains the authority to exercise its corrective action, inspection, and

enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under other statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Kentucky must revise its approved UST 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 Kentucky obtains approval for 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) *Final approval.* Kentucky has final approval for the following elements submitted to the EPA and approved effective September 16, 2020.

(1) *State statutes and regulations—(i) Incorporation by reference.* The Kentucky materials cited in this paragraph and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may access copies of the Kentucky statutes and regulations that are incorporated by reference from the Kentucky Department for Environmental Protection, Underground Storage Tank Branch, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601. You may also access copies of the statutes and regulations that are incorporated by reference from the Kentucky Legislative Research Commission at the following website: <https://legislature.ky.gov/Pages/index.aspx>. You may inspect all approved material at the EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562-9900; or the National Archives and Records Administration (NARA), email: fr.inspection@nara.gov; website: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) Kentucky Statutory Requirements Applicable to the Underground Storage Tank Program, dated September 10, 2021.

(B) Kentucky Regulatory Requirements Applicable to the Underground Storage Tank Program, dated September 10, 2021.

(ii) *Legal basis.* The EPA considered the following statutes and regulations which provide the legal basis for the State's implementation of the UST Program, but these provisions do not replace Federal authorities. Further, these provisions are not incorporated by reference, unless the provisions place requirements on regulated entities.

(A) *Kentucky Revised Statutes (KRS), Chapter 61, subchapters 870 to 884* (2018)—insofar as these provisions relate to authorities enabling public participation and the sharing of information.

(B) *Kentucky Revised Statutes (KRS), Chapter 224* (2017):

(1) KRS 224.1-400(9) and (11), insofar as these provisions provide authority for release reporting and notification to KDEP.

(2) KRS 224.10-100(5), (10), and (28), insofar as these provisions relate to the general powers and duties of KDEP to prevent pollution, conduct inspections and compliance monitoring, and promulgate UST regulations.

(3) KRS 224.10-410, insofar as it relates to the authority of KDEP to issue an order for corrective measures without a hearing.

(4) KRS 224.10-420(2), insofar as it relates to the administrative processes governing enforcement proceedings and public participation in the enforcement process.

(5) KRS 224.10-440, insofar as it relates to regulations governing the procedural requirements for administrative hearings.

(6) KRS 224.60-105(2)-(4), insofar as these provisions relate to the general authority of KDEP to regulate USTs and the preemption of local laws, ordinances, and regulations.

(7) KRS 224.60-120(6), insofar as it relates to the authority of KDEP to promulgate administrative regulations for implementing financial responsibility requirements.

(8) KRS 224.60-135(1), (2), and (4), insofar as these provisions relate to the authority of KDEP to require or initiate corrective action for releases into the environment.

(9) KRS 224.60–137(3), insofar as it relates to the duty of KDEP to develop standards for corrective action.

(10) KRS 224.60–138, insofar as it relates to the duties of KDEP to determine whether corrective action for a release from or closure of a petroleum UST has been completed.

(11) KRS 224.60–155, insofar as it relates to the authority of KDEP to assess a civil penalty for failure to comply with the administrative regulations.

(12) KRS 224.99–010(9), insofar as it applies to KRS 224.1–400, and relates to the authority to assess a civil penalty and the concurrent jurisdiction and venue of the Franklin Circuit Court.

(13) KRS 224.99–020, insofar as it relates to the authority to commence an enforcement action to require compliance, or recovery of penalties or costs.

(C) *Kentucky Rules of Civil Procedure, Rule 24*, insofar as it provides for public participation in the State enforcement process, including intervention.

(D) *401 Kentucky Administrative Regulations (KAR) 42:020* (2019)—Section 18, insofar as it relates to the authority of KDEP to implement delivery prohibition.

(E) *400 Kentucky Administrative Regulations (KAR) Chapter 1* (2018):

(1) 400 KAR 1:090, insofar as it establishes procedures for administrative hearings to enforce compliance, and provides for public participation.

(2) 400 KAR 1:100, insofar as it contains the general administrative hearing practice provisions governing matters brought to enforce compliance with the UST Program.

(iii) *Other provisions not incorporated by reference.* The following statutory and regulatory provisions are broader in scope than the federal program or external to the State UST program approval requirements. Therefore, these provisions are not part of the approved program, and are not incorporated by reference herein:

(A) *Kentucky Revised Statutes (KRS) Chapter 224*:

(1) KRS 224.60–110 is external insofar as it contains the Kentucky General Assembly’s legislative intent with respect to the regulation of petroleum underground storage tanks.

(2) KRS 224.60–130 is broader in scope insofar as it relates to the administration of the petroleum storage tank environmental assurance fund.

(3) KRS 224.60–135(3) is external insofar as it relates to the obligation of KDEP to notify the UST owner or operator prior to initiating or contracting for corrective action.

(4) KRS 224.60–135(5) is broader in scope insofar as it relates to the authority of the State Fire Marshal to promulgate regulations requiring persons who install, repair, close or remove USTs to demonstrate financial assurance.

(5) KRS 224.60–137(1), (2), and (4) are external insofar as they relate to contracting with the University of Kentucky for the purpose of updating standards for corrective action and for the Cabinet to develop an inventory of facilities eligible for reimbursement.

(6) KRS 224.60–140 is broader in scope insofar as it relates to the creation and administration of a petroleum storage tank environmental assurance fund.

(7) KRS 224.60–142 is broader in scope insofar as it relates to UST registration requirements applicable to participation in the petroleum storage tank environmental assurance fund.

(8) KRS 224.60–145 is broader in scope insofar as it relates to the establishment of an environmental assurance fee and deposit fee, and insofar as it relates to administration of accounts in the petroleum storage tank environmental assurance fund.

(9) KRS 224.60–150 is broader in scope insofar as it relates to the authority to levy and collect a fee from owners or operators of USTs for the purpose of funding the administration of the UST Program.

(10) KRS 224.60–160 is external insofar as it relates to the severability of any provision of the statute.

(B) *401 Kentucky Administrative Regulations (KAR) Chapter 42*:

(1) 401 KAR 42:020

(i) Section 2(1)(b) is external insofar as it relates to the attendance of a KDEP representative during installation.

(ii) Sections 2(2)–(6) are broader in scope insofar as they relate to UST registration requirements.

(iii) Section 2(7)(c) is broader in scope insofar as it relates to the submittal of an amended UST Registration Form for UST sale.

(iv) Sections 2(8)–(9) are broader in scope insofar as they relate to registration requirements and the collection of annual fees.

(v) Section 3(1) is broader in scope insofar as it relates to the submittal of an amended UST Registration Form for temporary closure.

(vi) Section 7 is broader in scope insofar as it places requirements on shear valves, components that are not UST system components.

(vii) Sections 11(4) and (9) are broader in scope insofar as they place certification and qualification requirements directly on corrosion prevention, protection, and repair contractors.

(viii) Section 13(2) is broader in scope insofar as it requires repair contractors to be certified by the State Fire Marshal.

(ix) Sections 15(6) and (7) are broader in scope insofar as they place qualification requirements directly on system equipment testers to validate equipment test results.

(x) Section 22 is external insofar as it relates to the authority of KDEP to extend compliance deadlines.

(2) 401 KAR 42:060

(i) Section 2 is external insofar as it relates to the authority of the Environmental Response Team during environmental emergencies.

(ii) Section 7 is external insofar as it relates to classification of UST facilities following closure or a release.

(iii) Section 8 is external insofar as it relates to the authority of KDEP to issue a no further action letter.

(iv) Section 9 is external insofar as it relates to the authority of KDEP to extend compliance deadlines.

(3) 401 KAR 42:250 is broader in scope insofar as it establishes eligibility requirements and procedures for the petroleum storage tank environmental assurance fund.

(4) 401 KAR 42:330 is broader in scope insofar as it establishes the eligibility requirements and rates for reimbursement from the Small Owners Tank Removal Account.

(2) *Statement of legal authority.* The Attorney General's statement, signed

by the General Counsel for the Kentucky Energy and Environment Cabinet on September 23, 2019, 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 Adequate Enforcement Procedures" submitted as part of the original application on October 7, 2019, 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 7, 2019, 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 Energy and Environment Cabinet, Kentucky Department for Environmental Protection, signed by the EPA Regional Administrator on August 18, 2020, 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.*

[87 FR 3682, Jan. 25, 2022]

§ 282.68 Louisiana State-Administered Program.

(a) *History of the approval of Louisiana's program.* 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 published the notice of final determination approving the Louisiana underground storage tank base program effective on September 4, 1992. A subsequent program revision application was approved effective on August 3, 2020.

(b) *Enforcement authority.* Louisiana has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retaining program approval.* 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) *Final program approval.* Louisiana has final approval for the following elements of its program application originally submitted to EPA and approved effective September 4, 1992, and the program revision application approved by EPA effective on August 3, 2020.

(1) *State statutes and regulations—(i) Incorporation by reference.* The provisions cited in this paragraph (d)(1)(i) are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of Louisiana UST regulations that are incorporated by reference in this paragraph (d)(1)(i) from the Louisiana Office of the State Register, P.O. Box 94095, Baton Rouge, LA 70804-9095; Phone number: (225) 342-5015; website: <https://www.doa.la.gov/Pages/osr/lac/LAC-33.aspx>; or Louisiana Department of Environmental Quality's website: <http://www.deq.louisiana.gov/resources/category/regulations-lac-title-33>. You may inspect all approved material at the EPA Region 6, 1201 Elm Street, Suite #500, Dallas, Texas 75270 (phone number (214) 665-2239) or the National

Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “Louisiana Regulatory Requirements Applicable to the Underground Storage Tank Program, September 2019”. Those provisions are listed in appendix A to this part.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) Louisiana Revised Statutes, Title 30, Subtitle II, Environmental Quality (Environmental Quality Act):

(i) Chapter 2. Department of Environmental Quality, Section 2011. Department of Environmental Quality created; duties; powers; structure, paragraphs (A) through (C), (D) introductory paragraph through (D)(10), (D)(13) through (D)(15), (D)(17) through (D)(23), (D)(25), and (E) through (G); Section 2012. Enforcement inspections; Section 2025. Enforcement; Section 2026. Citizen suits; Section 2030. Confidential information; restricted access via the internet; Section 2043. Public records; forms and methods; electronic signatures.

(ii) Chapter 2–A. Enforcement Procedure and Judicial Law, Section 2050.4. Enforcement; final action; Section 2050.7. Enforcement; settlement or compromise; Section 2050.8. Enforcement; cease and desist orders.

(iii) Chapter 4. Louisiana Water Control Law, Section 2077. Remediation of pollution;

(iv) Chapter 9. Hazardous Waste Control Law, Section 2194. Underground Storage Tanks; registration, paragraphs (C) introductory paragraph, (B)(6), (B)(8), (B)(9), (B)(15), and (C) through (E); Section 2194.1. Prohibitions; Section 2195.9 Financial responsibility; 2195.10 Financial responsibility for noncompliance; 2195.11 Voluntary cleanup; private contracts; exemptions.

(v) Chapter 12. Liability for Hazardous Substance Remedial Action,

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Part I. General provisions, Section 2277. Defenses, Subsection (4).

(2) Louisiana Code of Civil Procedure Section 4 Intervention, Article 1091 Third person may intervene.

(B) The regulatory provisions include:

(1) Louisiana Administrative Code, Title 33; effective September 20, 2018:

(i) Part I. Office of the Secretary, Chapter 7—Penalty Regulations, Chapter 8—Expedited Penalty Regulations, Chapter 13—Risk Evaluation/Corrective Action Program Regulations, Chapter 39—Notification Regulations and procedures for Unauthorized Discharges, section 3915 Notification Requirements for Unauthorized Discharges That Cause Emergency Conditions and section 3923 Notification Requirements for Other Regulatorily Required Reporting.

(ii) Part XI. Underground Storage Tanks, Chapter 3, section 301.C.9 through C.12; Chapter 4 Delivery Prohibition, section 401 purpose and section 403 delivery prohibition of regulated substances to underground storage tank systems; Chapter 7. Methods of Release Detection and Release reporting, Investigation, Confirmation, and Response, section 715.H public participation; Chapter 15. Enforcement.

(2) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Louisiana underground storage tank program are broader in coverage than the Federal program, are not part of the approved program, and are not incorporated by reference in this section for enforcement purposes:

(A) Louisiana Revised Statutes, Title 30, Subtitle II, Environmental Quality (Environmental Quality Act).

(B) Louisiana Administrative Code, Title 33, Part XI. Underground Storage Tanks, Chapter 1, Section 103, definitions of *owner (as it refers to operators, lessees, or lessors as owners)*, *on staff, registered tank, registration certificate, response action contractor*, and *technical services*; Chapter 3, Sections 301. C.6, Section 307; Chapter 7, Section 715.A; Chapter 11, Section 1121; Chapter 12; Chapter 13.

(2) *Statement of legal authority.* The Attorney General's Statements, signed by the Attorney General of Louisiana

on September 12, 1991 and September 27, 2018, 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 on October 9, 1991 and as part of the program revision application for approval on October 2, 2018 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 9, 1991 and as part of the program revision application on October 2, 2018, 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 8, 2019 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.*

[85 FR 34368, June 4, 2020]

§ 282.69 Maine State-Administered Program.

(a) The State of Maine 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 Maine Department Environmental Protection (ME DEP), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Maine program on June 11, 1992, which was effective on July 13, 1992.

(b) Maine 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, Maine 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 Maine 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) Maine has final approval for the following elements of its program application originally submitted to EPA and approved effective July 13, 1992, and the program revision application approved by EPA, except as it relates to USTs on Indian lands, effective on December 2, 2019.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The material cited in this paragraph (d)(1)(i), 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 Maine regulations and statutes that are incorporated by reference in this paragraph (d)(1)(i) from the Staff to the Board of Underground Storage Tank Installers, Maine DEP, 17 SHS, Augusta, ME 04333–0017; Phone number: 207–287–7688; Hours: Monday–Friday, 8:00 a.m. to 5:00 p.m.; website for statutes and regulations: <https://www.maine.gov/dep/waste/ust/lawsrules.html>.

(A) “Maine Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, September 2018.”

(B) [Reserved]

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

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

(A) The statutory provisions include:

(1) *Maine Revised Statutes, Title 4: Judiciary; Chapter 5: District Court; Section 152.* District court, Civil jurisdiction; 6-A N. All laws administered by the Department of Environmental Protection.

(2) *Maine Revised Statutes, Title 14: Court Procedure—Civil, Chapter 711: Equity Proceedings.*

(3) *Maine Revised Statutes, Title 17: Crimes, Chapter 91: Nuisances, Section 2794.* Dumping of oil.

(4) *Maine Revised Statutes Annotated, Title 38. Waters and Navigation, Chapter 2. Department of Environmental Protection, Subchapter 1. Organization and Powers, Section 342.7.* Representation in court, Section 342.11–B. Revoke or suspend licenses and permits, Section 346. Judicial appeals, Section 347–A. Violations, Section 348. Judicial enforcement, and Section 349. Penalties.

(5) *Maine Revised Statutes Annotated, Title 38. Waters and Navigation, Chapter 3. Protection and Improvement of Waters, Subchapter 2–A. Oil Discharge Prevention and Pollution Control, Section 550.* Enforcement, Penalties.

(6) *Maine Revised Statutes Annotated, Title 38. Waters and Navigation, Chapter 3. Protection and Improvement of Waters, Subchapter 2–B. Oil Storage Facilities and Ground Water Protection, Section 565–A.* Authority to prohibit product delivery; Section 568.3. Issuance of clean-up orders; Section 568.4. Enforcement, penalties, punitive damages, Section 570–C. Municipal ordinances, powers limited.

(7) *Maine Revised Statutes Annotated, Title 38. Waters and Navigation, Chapter 13–D: Wellhead Protection, Section 1397.* Enforcement.

(B) The regulatory provisions include:

(1) 06–096, *Maine Department of Environmental Protection, Chapter 691, Rule for Underground Oil Storage Facilities:* 4.O. Registration of Underground Oil Storage Facilities; 5.D.(11)(e) Leak or discharge reporting requirements; 12.A.(3) Discharge and leak investigation, response and corrective action; 14. Severability.

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(2) *The Maine Rules of Civil Procedure*, Rule 24. Intervention, Rule 80K. Land Use Violations.

(iii) *Provisions not incorporated by reference*. The following specifically identified statutory and regulatory provisions applicable to the Maine's UST program 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) *Maine Revised Statutes Annotated, Title 38. Waters and Navigation, Chapter 3. Protection and Improvement of Waters, Subchapter 2-A. Oil Discharge Prevention and Pollution Control*: Section 551. Maine Ground and Surface Waters Clean-up and Response Fund;

(B) *Maine Revised Statutes Annotated, Title 38. Waters and Navigation, Chapter 3. Protection and Improvement of Waters, Subchapter 2-B. Oil Storage Facilities and Ground Water Protection*: Section 563. 9. Annual compliance inspection.; Section 564. 5. Mandatory for replacement.; Section 565. Regulation of underground oil storage facilities used for consumption on the premises or by the owner or operator; Section 566-A. 5. Abandonment of underground oil storage facilities and tanks; Section 567. Certification of underground tank installers; Section 570-I. Budget approval;

(C) *06-096, Maine Department of Environmental Protection, Chapter 691, Rule for Underground Oil Storage Facilities*: 5.B.(4)(a), (d), (g), (h), and (j) General facility installation requirements; 5.B.(5)(b) Installation requirements for new and replacement tanks; 5.D.(3)(f) Operation and Monitoring Requirements for Galvanic Cathodic Protection Systems; 5.D.(6)(b) Overfill and spill prevention; 5.D.(14)(c) Repairs other than relining; 5.D.(15)(f) (vii) Financial responsibility requirements; 5.D.(17) Annual compliance inspection requirements; 5.D.(19)(b) Safe excavation requirements; 5.F. Mandatory facility closure upon expiration of warranty; 6. Regulation of heating oil facilities used for consumption on the premises or by the owner or operator; 7.B.(7) Design and installation standards for new and replacement facilities; 8.B.(1)(d) and (e) Design and installation requirements for new and replace-

ment tanks, 8.B.(4)(b), (d), and (e) General installation requirements, 9.B.(4) Installation requirements for new and replacement heavy oil facilities, 10.B.(1)(c) General design and construction requirements, 10.B.(3)(b), (f), and (h) General installation requirements, and 10.D.(2) Operation, maintenance, testing and inspection requirements for new, replacement and existing systems.

(2) *Statement of legal authority*. The Attorney General's Statements, signed by the Attorney General of Maine on December 5, 1991, and October 12, 2018, 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 on November 27, 1991, and as part of the program revision application for approval on October 13, 2018 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 November 27, 1991, and as part of the program revision application on October 13, 2018, 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 Maine Department of Environmental Protection, signed by the EPA Regional Administrator on November 21, 2018 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.*

[84 FR 52789, Oct. 3, 2019]

§ 282.70 [Reserved]

§ 282.71 Massachusetts State-Administered Program.

(a) The State of Massachusetts 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 Massachusetts Department Environmental Protection (MassDEP), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this Chapter. EPA approved the Massachusetts program on March 3, 1995, which was effective on April 17, 1995.

(b) Massachusetts 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, Massachusetts 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 Massachusetts 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) Massachusetts has final approval for the following elements of its program application originally submitted to EPA and approved effective April 17, 1995, and the program revision application approved by EPA, effective on September 16, 2019.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The material cited in this paragraph, and listed in appendix A to part 282, 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 Massachusetts statutes and regulations that are incorporated by reference in this paragraph from the State Bookstore,

State House, Room 116, Boston, MA 02133; Phone number: 617-727-2834; Hours: Monday–Friday, 8:45 a.m. to 5:00 p.m.; website: <http://www.sec.state.ma.us/spr/sprcat/catidx.htm>.

(A) “Massachusetts Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, March 2019.”

(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) Massachusetts General Laws, Chapter 21A, *Executive Office of Energy and Environmental Affairs*, Section 16, Civil Administrative Penalties.

(2) Massachusetts General Laws, Chapter 21E, *Massachusetts Oil and Hazardous Material Release Prevention and Response Act (2014)*, Sections 4 through 6, 8 through 12 and 15 through 18.

(3) Massachusetts General Laws, Chapter 21J, *Underground Petroleum Product Cleanup Fund*, Chapters 11 through 14.

(4) Massachusetts General Laws, Chapter 21O, *Operation and Removal of Underground Storage Tanks*, Section 4, Sections 6 through 9.

(B) The regulatory provisions include:

(1) Code of Massachusetts Regulations, 310 CMR 80, *Underground Storage Tank (UST) Systems*: 80.10 Duty to Provide Information; 80.12 Presumption of Irreparable Harm; 80.13, Department Access to UST Facilities and Records; 80.48, Delivery Prohibition; 80.50, Enforcement and Appeals.

(2) Code of Massachusetts Regulations, 310 CMR 40, *Massachusetts Contingency Plan*: 40.0010, Effect of Orders and Appeals; 40.0011, Confidentiality of Information; 40.0013, Presumption of Irreparable Harm; 40.0019, Violations of Environmental Restrictions; 40.0020, Violations of a Permanent Solution or Temporary Solution; 40.0021, Unlawful Interference with Response Actions; 40.0050, Appeals of Orders and Permits;

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40.0051, Appeals Relative to Administrative Penalties; 40.0160, Departmental Notice to Responsible Parties and Potentially Responsible Parties; 40.0165, Department Request for Information (RFI); 40.0166, Department Right of Entry; 40.0171, Failure to Perform a Response Action.

(iii) *Provisions not incorporated by reference.* The following specifically identified statutory and regulatory provisions applicable to the Massachusetts' UST program 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) *Massachusetts General Laws, Chapter 210: Operation and Removal of Underground Storage Tanks*, Section 1, Removal or relocation of underground flammable or combustible fluid tanks; permits; abandoned underground residential tanks; *Massachusetts General Laws, Chapter 21E: Massachusetts Oil and Hazardous Material Release Prevention and Response Act*, Sections 3A, 3B, Sections 13, 14, and 19 through 22;

(B) *Code of Massachusetts Regulations, Title 310 CMR Chapter 80, Underground Storage Tank Systems: General Provisions* Section, Applicability, 80.04(6)(c), (8) through (12); Design, Construction and Installation Requirements Section, 80.16(7); Requirements for Compliance Certification Section, 80.34; Class A, B, and C Operator Requirements and Certifications, 80.37; Third Party Inspections Section, 80.49; *310 CMR Chapter 40, Massachusetts Contingency Plan: Subpart B: Organization and Responsibilities, The Role of Licensed Site Professionals* Section, 40.0169; and other provisions of Chapter 40.0000 Subparts A–P insofar as they do not relate to underground storage tanks and with respect to underground storage tanks insofar as they are broader in scope than the federal requirements.

(2) *Statement of Legal Authority.* The Attorney General's Statements, signed by the Attorney General of Massachusetts on August 18, 1993, and March 2, 2017, 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 on October 5, 1992, and as part of the program revision application for approval on June 21, 2017 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 5, 1992, and as part of the program revision application on June 21, 2017, 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 Massachusetts Department of Environmental Protection, signed by the EPA Regional Administrator on November 21, 2018 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.*

[84 FR 34318, July 18, 2019]

§ 282.72 [Reserved]

§ 282.73 Minnesota State-Administered Program.

(a) The State of Minnesota's underground storage tank program is approved in lieu of the Federal program in accordance with 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 Minnesota Pollution Control Agency, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Minnesota underground storage tank program on November 30, 2001, and approval was effective on December 31, 2001.

(b) Minnesota has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities

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in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, Minnesota must revise its approved program to adopt new changes to the Federal Subtitle I program that make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Minnesota 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) Minnesota has final approval for the following elements submitted to EPA in the State's program application for final approval. On November 30, 2001, EPA published a rule approving the State's program in the FEDERAL REGISTER, 66 FR 59713. That approval became effective on December 31, 2001. Copies of Minnesota's program application may be obtained from the Minnesota Pollution Control Agency, UST/LUST Program, 520 Lafayette Road North, St. Paul, MN 55155-3898.

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

(A) Minnesota Statutory Requirements Applicable to the Underground Storage Tank Program, 2000.

(B) Minnesota Regulatory Requirements Applicable to the Underground Storage Tank Program, 2000.

(ii) EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include:

(1) *Minnesota Statutes, Chapter 13, Government Data Practices*

M. S. 13.08 Civil remedies

M. S. 13.09 Penalties

(2) *Minnesota Statutes, Chapter 115, Water Pollution Control; Sanitary Districts*

M. S. 115.04 Disposal Systems and Point Sources; subd. 1, 2, 3: Information; Examination of records; Access to premises

M. S. 115.071 Enforcement

M. S. 115.072 Recovery of Litigation Costs and Expenses

(3) *Minnesota Statutes, Chapter 115B, Environmental Response and Liability*

M. S. 115B.17 State response to releases; subd. 4: Access to information and property

M. S. 115B.175 Voluntary Response Actions; Liability Protection; Procedures

M. S. 115B.177 Owner of Real Property Affected by Off-Site Release

M. S. 115B.178 Association with Release; Commissioner's Determination

M. S. 115B.18 Failure to Take Requested Action; Civil Penalties; Action to Compel Performance; Injunctive Relief

(4) *Minnesota Statutes, Chapter 115C, Petroleum Tank Release Cleanup*

M. S. 115C.04 Liability for Response Costs

M. S. 115C.05 Civil Penalty

M. S. 115C.09 Reimbursement; subd. 5(b), 6: Return of reimbursement; Fraud

M. S. 115C.113 Orders

M. S. 115C.12 Appeal of reimbursement determination

(5) *Minnesota Statutes, Chapter 116, Pollution Control Agency*

M. S. 116.07 Powers and Duties; subd. 9(b): Orders; investigations

M. S. 116.072 Administrative Penalties

M. S. 116.073 Field Citations

M. S. 116.091 Systems and Facilities

M. S. 116.11 Emergency Powers

(6) *Minnesota Statutes, Chapter 116B, Environmental Rights*

M. S. 116B.03 Civil Actions

M. S. 116B.07 Relief

(B) The regulatory provisions include:

(1) *Minnesota Rules of Civil Procedure*

Rule 24.01 Intervention of Right

Rule 24.02 Permissive Intervention

(2) *Minnesota Rules, Chapter 2890, Petroleum Tank Releases*

2890.0100 Review and Determination

2890.0110 Right to Appeal

2890.0130 Action on Notice of Lien Filing

(3) *Minnesota Rules, Chapter 7000, Procedural Rule*

M. S. 7000.0300 Duty of Candor

M. S. 7000.0900 Informal Complaints

M. S. 7000.1200 Inspection of Public Records

M. S. 7000.1300 Confidential Information

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(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. These provisions are not federally enforceable.

(A) The statutory provisions include:

(1) *Minnesota Statutes, Chapter 115C, Petroleum Tank Release Cleanup*

M. S. 115C.03 Response to releases [insofar as subd. 10 imposes recordkeeping requirements on contractors and consultants.]

M. S. 115C.045 Kickbacks [insofar as it applies to individuals other than UST system owners and operators.]

M. S. 115C.065 Consultants' or Contractors' duty to notify [insofar as it imposes notification requirements on contractors and consultants.]

M. S. 115C.08 Petroleum tank fund [insofar as subd. 3 imposes a petroleum tank release cleanup fee on petroleum distributors.]

M. S. 115C.11 Consultants and contractors; sanctions [insofar as it applies to individuals other than UST system owners and operators.]

M. S. 115C.111 Consultant and contractor sanctions; actions based on conduct occurring before March 14, 1996 [insofar as it applies to individuals other than UST system owners and operators.]

M. S. 115C.112 Consultant and contractor sanctions; actions based on conduct occurring on and after March 14, 1996 [insofar as it applies to individuals other than UST system owners and operators.]

(2) *Minnesota Statutes, Chapter 116, Pollution Control Agency*

M. S. 116.46 Definitions [insofar as subd. 8 includes vessels, enclosures, or structures—which are exempt from the federal program—in the definition of UST.]

M. S. 116.47 Exemptions [insofar as paragraph (2) does not exclude from regulation USTs of 1,100 gallon capacity or more used to store heating oil for consumptive use.]

M. S. 116.48 Notification requirements [insofar as subd. 1(b) requires that the owner of an AST must notify the MPCA of the tank's status.]

M. S. 116.48 Notification requirements [insofar as subd. 2 imposes requirements on owners who discover an abandoned AST.]

M. S. 116.48 Notification requirements [insofar as subd. 3 imposes notification requirements on owners of ASTs removing a tank from service or changing the tank's service.]

M. S. 116.48 Notification requirements [insofar as subd. 4 places notification requirements on persons transferring the title to regulated substances to be placed directly into an UST.]

M. S. 116.48 Notification requirements [insofar as subd. 5 imposes notification requirements on sellers of ASTs.]

M. S. 116.48 Notification requirements [insofar as subd. 6 imposes notification requirements on owners who plan to transfer ownership of property containing an AST.]

M. S. 116.491 Tank installers training and certification [insofar as it applies to individuals other than UST system owners and operators.]

M. S. 116.492 Basement storage tanks; removal [insofar as it applies to a class of tanks not regulated under the federal program.]

(B) The regulatory provisions include:

(1) *Minnesota Rules, Chapter 7105—Minnesota Pollution Control Agency, Water Quality Division, Underground Storage Tanks: Training* (In addition to the other specific reasons noted, the following sections of Chapter 7105 are broader in scope, insofar as they set forth training requirements for persons not regulated under the federal program.)

7105.0010 Definitions [insofar as subp. 25 includes vessels, enclosures, and structures—which are exempt from the federal program—in the definition of UST.]

7105.0030 General Provisions; Certification requirements and deadlines; Certificate availability [insofar as subp. 1 and 2 require training for individuals not regulated under the federal program.]

7105.0040 Exclusions [insofar as it does not exclude from regulation heating oil storage tanks with a capacity of greater than 1,100 gallons.]

7105.0050 Contractor Certification

7105.0060 Supervisor Certification

7105.0070 Standards of Performance

7105.0080 Storage Tank Service Provider Training Course Requirements

7105.0090 Examinations and Diplomas

7105.0100 Approval of Certification Training Courses

7105.0110 Sanctions

7105.0120 Fees

7105.0130 Incorporation by Reference

(2) *Minnesota Rules, Chapter 7150—Minnesota Pollution Control Agency, Water Quality Division, Underground Storage Tanks Program*

7150.0010 Applicability [insofar as subp. 2 does not exclude from regulation liquid traps or associated gathering lines directly related to oil and gas production and gathering operations.]

7150.0010 Applicability [insofar as subp. 2(H) does not exclude from regulation heating

oil storage tanks with a storage capacity of greater than 1,100 gallons.]

7150.0010 Applicability [insofar as subp. 5 does not exclude owners and operators of heating oil storage tanks with a storage capacity of greater than 1,100 gallons from notification requirements.]

7150.0030 Definitions [insofar as subp. 51 includes vessels, enclosures, and structures—which are exempt from the federal program—in the definition of UST.]

7150.0300 General Requirements for All Underground Storage Tank Systems [insofar as subp. 3 imposes release detection schedule requirements on hazardous material tanks not regulated under the federal program.]

(3) *Minnesota Rules, Chapter 7510—Department of Public Safety, Fire Marshal Division, Fire Safety*

7510.3670 Liquefied Petroleum Gases; Section 8203: Installation of Containers [insofar as it regulates ASTs.]

(2) *Statement of legal authority.* (i) “Attorney General’s Statement,” signed by the State Attorney General on September 12, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Minnesota to EPA, September 12, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with 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 May 11, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with 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 May 11, 2000, though not incorporated by reference, are referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between

EPA Region 5 and the Minnesota Pollution Control Agency, signed by the EPA Regional Administrator on November 14, 2001, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[70 FR 29360, May 24, 2005]

§ 282.74 Mississippi State-Administered Program.

(a) *History of the approval of Mississippi’s program.* The State of Mississippi (Mississippi or State) is approved to administer and enforce an underground storage tank (UST) 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 Underground Storage Tank Program (UST Program), as administered by the Mississippi Department of Environmental Quality (MDEQ), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Mississippi UST Program on June 11, 1990, and it was effective on July 11, 1990. A subsequent program revision was approved by EPA and became effective March 18, 2024.

(b) *Enforcement authority.* Mississippi has primary responsibility for administering and enforcing its federally approved UST Program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Mississippi must revise its approved UST 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 Mississippi obtains approval for 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

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notice of any change will be published in the FEDERAL REGISTER.

(d) *Final approval.* Mississippi has final approval for the following elements of its UST Program submitted to EPA and approved effective June 11, 1990, and the program revisions approved by EPA effective on March 18, 2024:

(1) *State statutes and regulations—(i) Incorporation by reference.* The Mississippi materials cited in this paragraph (d)(1)(i), and listed in appendix A to this part, are incorporated by reference as part of the UST 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 Mississippi statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from the Mississippi Department of Environmental Quality, P.O. Box 2261, Jackson, MS 39201; Phone number: (601) 961-5171; website: <https://www.mdeq.ms.gov/water/groundwater-assessment-and-remediation/underground-storage-tanks/>.

(A) “Mississippi Statutory Requirements Applicable to the Underground Storage Tank Program,” dated September 5, 2023.

(B) “Mississippi Regulatory Requirements Applicable to the Underground Storage Tank Program,” dated September 5, 2023.

(ii) *Legal basis.* EPA considered the following statutes and regulations which provide the legal basis for the State’s implementation of the UST Program, but do not replace Federal authorities. Further, these provisions are not being incorporated by reference, unless the provisions place requirements on regulated entities.

(A) *Mississippi Underground Storage Tank Act (the UST Act) of 1988*, Miss. Code Ann. sections 49-17-401 to 49-17-435 (2022).

(1) Section 49-17-409, as to the first sentence, insofar as it provides for compliance monitoring and the promulgation of regulations for the reporting of releases.

(2) Section 49-17-413(1), insofar as it provides for compliance monitoring, and the promulgation of regulations for the implementation of the State UST Program.

(3) Section 49-17-415, insofar as it provides for compliance monitoring and establishes authority to conduct inspections, tests, and obtain information from owners.

(4) Section 49-17-419, insofar as it establishes authority over corrective action.

(5) Section 49-17-425, insofar as it provides for the sharing of information with EPA.

(6) Section 49-17-427, insofar as it provides for enforcement response, enforcement of orders, assessment of penalties under the UST Act, proceedings before the commission, and limitations on liability.

(7) Section 49-17-431, insofar as it provides for appeal of any decision by the commission or the director.

(B) *Mississippi Air and Water Pollution Control Law*, Miss. Code Ann. sections 49-17-27 and 49-17-31 to 49-17-41 (2020).

(1) Section 49-17-27, insofar as it provides for enforcement response and injunctive relief.

(2) Section 49-17-31, insofar as it provides for enforcement response, notice of violations, enforcement of regulations and orders, procedures for contested cases, and assessment of penalties.

(3) Section 49-17-33, insofar as it provides for hearing procedures, issuance of orders, and penalties.

(4) Section 49-17-35, insofar as it provides for enforcement response, public participation, and citizen intervention.

(5) Section 49-17-37, insofar as it provides for hearing procedures and transcripts.

(6) Section 49-17-39, insofar as it provides for the sharing of information with EPA.

(7) Section 49-17-41, insofar as it provides for appeal rights for aggrieved parties.

(C) *Mississippi’s Underground Storage Tank Regulations*, 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018).

(1) R. 2.3, 280.36, insofar as it provides for delivery prohibition and enforcement of the State UST Program.

(2) R. 2.6, 280.67, insofar as it provides for public participation in the corrective action process.

(D) *Rule 24(a)(2) of the Mississippi Rules of Civil Procedure (1982)*, insofar as it provides for citizen intervention and

public participation in the State enforcement process.

(iii) *Other provisions not incorporated by reference.* The following statutory and regulatory provisions applicable to the Mississippi UST Program are broader in scope than the Federal program, external to the State UST program approval requirements, or are being excluded for other reasons as noted below. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference in this section:

(A) *Mississippi Underground Storage Tank Act (the UST Act) of 1988, Miss. Code Ann. sections 49-17-401 to 49-17-435 (2022).*

(1) 49-17-403(b) is broader in scope as to the definition of “Bonded distributor,” insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(2) Section 49-17-403(o) is broader in scope as to the definition of “Response action contractor,” insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(3) Section 49-17-403(p) is broader in scope as to the definition of “Retailer,” insofar as it is associated with the regulation of entities other than owners and operators as these terms are defined in 40 CFR 280.12.

(4) Section 49-17-403(q) is broader in scope as to the definition of “Substantial compliance,” insofar as it relates to a State fund.

(5) Section 49-17-405 is broader in scope insofar as it provides for the creation of the Mississippi Groundwater Protection Trust Fund (State Fund), promulgation of regulations regarding the State Fund, criteria for qualified expenditure of funds, and liability of owners for fund expenditures.

(6) Section 49-17-407 is broader in scope insofar as it creates an environmental protection fee, provides limits on use of the State Fund, and addresses third party claims.

(7) Section 49-17-409 is broader in scope, all except for the first sentence, insofar as it provides for the eligibility requirements of the State Fund and reimbursement of costs from owners.

(8) Section 49-17-421 is broader in scope insofar as it establishes an annual tank regulatory fee.

(9) Section 49-17-422 is broader in scope insofar as it creates an Underground Storage Tank Advisory Council.

(10) Section 49-17-423 is broader in scope insofar as it pertains to the commission’s administration of funds from the Leaking Underground Storage Tank Trust Fund.

(11) Section 49-17-429 is broader in scope insofar as it requires the certification of individuals to install, alter, or remove underground storage tanks and provides for the promulgation of regulations setting forth certification requirements.

(12) Section 49-17-433 is external insofar as it pertains to the severability of the State UST Act.

(13) Section 49-17-435 is external insofar as it contains reporting obligations on the State agency, not a regulated entity.

(B) *Mississippi Air and Water Pollution Control Law, Miss. Code Ann. sections 49-17-27 and 49-17-31 to 49-17-41 (2020).*

(1) Section 49-17-32 is external insofar as it does not pertain to the State UST Program.

(2) Section 49-17-34 is external insofar as it does not pertain to the State UST Program.

(3) Section 49-17-36 is external insofar as it does not pertain to the State UST Program.

(C) *Mississippi’s Groundwater Protection Trust Fund Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 1 (2009)* is broader in scope insofar as these provisions regulate Immediate Response Action Contractors, Environmental Response Action Contractors, and the State Fund.

(D) *Mississippi’s Underground Storage Tank Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018).*

(1) R. 2.1, 280.12 is broader in scope as to the definition of “Ancillary equipment,” insofar as it pertains to dispensers.

(2) R. 2.1, 280.12 is broader in scope as to the definition of “Certificate of Operation,” insofar as it requires UST systems to be permitted by MDEQ and the payment of tank regulatory fees.

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(3) R. 2.1, 280.12 is broader in scope as to the definition of “Motor fuel,” insofar as it includes 100% biodiesel or ethanol.

(4) R. 2.1, 280.12 is broader in scope as to the definition of “New tank system,” insofar as it includes dispensers as part of the new tank system.

(5) R. 2.1, 280.12 is broader in scope as to the definition of “Register,” insofar as it requires notification for installation, replacement, and change in operational status of a dispenser.

(6) R. 2.1, 280.12 is broader in scope as to the definition of “Replace,” insofar as it considers replacement of a dispenser to constitute a new UST system.

(7) R. 2.2, 280.20(j) is broader in scope insofar as it regulates shear valves.

(8) R. 2.2, 280.22(a) and (b) are broader in scope insofar as these provisions regulate dispensers.

(9) R. 2.3, 280.34(g) through (i) are broader in scope insofar as these provisions regulate dispensers.

(10) R. 2.3, 280.35(a)(4) is broader in scope insofar as it regulates dispensers.

(11) R. 2.3, 280.35(b)(1) is broader in scope insofar as it regulates shear valves.

(12) R. 2.3, 280.38(b)(1)(iii) is broader in scope insofar as it regulates shear valves.

(13) R. 2.8, 280.91(e) and (f), are excluded for other reasons. Paragraph (e) is excluded only insofar as it includes Indian tribes as a “local government entity,” and paragraph (f) is excluded insofar as EPA retains responsibility for implementing the Federal UST program in Indian country.

NOTE 1 TO PARAGRAPH (D)(1)(III)(D)(13). MDEQ does not regulate any USTs on Indian lands and EPA retains responsibility for implementing the Federal UST program in Indian country. In a subsequent rulemaking, MDEQ will revise these provisions to remove references to the State’s regulation of USTs in Indian country.

(14) R. 2.8, 280.92, is excluded for other reasons only insofar as the definition of “Local government” includes Indian tribes.

NOTE 2 TO PARAGRAPH (D)(1)(III)(D)(14). MDEQ does not regulate any USTs on Indian lands and the EPA retains responsibility for implementing the Federal UST program in Indian country. In a subsequent rulemaking, MDEQ will revise the definition of “Local government” to exclude Indian tribes.

(15) R. 2.8, 280.100 is external insofar as it is not applicable in a State with an approved UST program.

(E) *Mississippi’s Underground Storage Tank Regulations for the Certification of Persons Who Install, Alter, and Remove Underground Storage Tanks*, 11 Miss. Admin. Code Pt. 5, Ch. 3 (2018) is broader in scope insofar as these provisions provide for the certification and regulation of persons who install, alter, test, and permanently close underground storage tanks.

(2) *Statement of legal authority*. The Attorney General’s Statement, signed by the Mississippi Attorney General on July 27, 2023, 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 Adequate Enforcement Procedures” submitted in the application dated July 31, 2023, as amended on August 17, 2023, 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 submitted in the application dated July 31, 2023, as amended on August 17, 2023, 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.*

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region 4 and the MDEQ, signed by the EPA Regional Administrator on October 12, 2018, 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.*

[89 FR 3358, Jan. 18, 2024]

§ 282.75 Missouri State-Administered Program.

(a) *History of the approval of Missouri’s program*. The State of Missouri 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 Missouri Department of Natural Resources, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Missouri program on May 5, 2004 and it was effective on June 5, 2004. A subsequent program revision application was approved by EPA and became effective on July 16, 2024.

(b) *Enforcement authority.* Missouri 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) *Retaining program approval.* To retain program approval, Missouri 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 Missouri 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) *Final program approval.* Missouri has final approval for the following elements of its program application originally submitted to EPA and approved on May 5, 2004 and effective June 5, 2004, and the program revision application approved by EPA, effective on July 16, 2024:

(1) *State statutes and regulations—(i) Incorporation by reference.* The provisions cited in this paragraph, and listed in appendix A to part 282, are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). You

may inspect all approved material at the EPA Region 7 Office, 11201 Renner Boulevard, Lenexa, KS 66219; phone number: (913) 551-7299. For information on the availability of this material at NARA, email: fr.inspection@nara.gov, or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations>. You may obtain copies of the Missouri regulations and statutes that are incorporated by reference in this paragraph from the Missouri Department of Natural Resources website at: <https://www.dnr.mo.gov/waste-recycling/business-industry/guidance-technical-assistance/underground-storage-tank-requirements>, <https://www.dnr.mo.gov/waste-recycling/investigations-cleanups/regulated-storage-tank-closure> or the Missouri Department of Natural Resources, Underground Storage Tanks Section, P.O. Box 176, Jefferson City, Missouri, 65102-0176; phone number: (573) 751-6822.

(A) EPA-Approved Missouri Statutory Requirements Applicable to the Underground Storage Tank Program, May 2017.

(B) EPA-Approved Missouri Regulatory Requirements Applicable to the Underground Storage Tank Program, May 2017.

(ii) *Legal basis.* EPA evaluated the following statutes and regulations, which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference for enforcement purposes and do not replace Federal authorities. Missouri's no less stringent underground storage tank program compliance criteria is included in their regulations. Missouri includes brief statements in their statutes establishing the authority of the Missouri Department of Natural Resources to create and implement the underground storage tank program. None of these statutes are incorporated by reference.

(A) Revised Statutes of Missouri, RSMo section 260.

(B) Revised Statutes of Missouri, RSMo sections 319.100, 319.103, 319.105, 319.107, 319.109, 319.111, 319.114, 319.117, 319.120, 319.123, 319.125, 319.127, 319.129, 319.130, 319.131, 319.132, 319.133, 319.135, 319.136, 319.137, 319.138, 319.139, 319.140.

(C) Revised Statutes of Missouri, RSMo section 507.

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(D) Revised Statutes of Missouri, RSMo section 644.

(E) Missouri Supreme Court Rules—Rule 52—Rules of Civil Procedure.

(F) Rules of Department of Natural Resources, Division 26—Chapters 1 and 4.

(G) Rules of Department of Natural Resources, Division 100—Chapters 1 through 5.

(iii) *Provisions not incorporated by reference.* 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 in this section for enforcement purposes:

(A) Missouri Revised Statutes.

(1) Revised Statutes of Missouri, RSMo section 260.

(2) Revised Statutes of Missouri, RSMo sections 319.100, 319.103, 319.105, 319.107, 319.109, 319.111, 319.114, 319.117, 319.120, 319.123, 319.125, 319.127, 319.129, 319.130, 319.131, 319.132, 319.133, 319.135, 319.136, 319.137, 319.138, 319.139, 319.140.

(3) Revised Statutes of Missouri, RSMo section 507.

(4) Revised Statutes of Missouri, RSMo section 644.

(B) Missouri Code of State Regulations.

(1) Rules of Department of Natural Resources, Division 26—Chapters 1, 4 and 5.

(2) Rules of Department of Natural Resources, Division 100—Chapters 1 through 5.

(2) *Statement of legal authority.* The “Attorney General’s Statement”, signed by the Missouri Attorney General on May 5, 2004, and August 11, 2023, 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 “Adequate Enforcement of Compliance” submitted as part of the original application on May 5, 2004, and as part of the program revision application on August 11, 2023, 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 May 5, 2004, and as part of the program revision application on August 11, 2023, 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 7 and the State of Missouri, signed by the EPA Regional Administrator on April 15, 2019, 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.*

[89 FR 43326, May 17, 2024]

EFFECTIVE DATE NOTE: At 89 FR 43326, May 17, 2024, § 282.75 was added, effective July 16, 2024.

§ 282.76 Montana State-Administered Program.

(a) *History of the approval of Montana’s Program.* The State of Montana 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 Montana Department of Environmental Quality (MDEQ), was approved by the EPA pursuant to 42 U.S.C. 6991c and Part 281 of this chapter. The EPA published the notice of final determination approving the Montana underground storage tank base program effective on March 4, 1996. A subsequent program revision application was approved by the EPA and became effective on October 15, 2019.

(b) *Enforcement authority.* Montana has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, the EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Montana must revise its approved program to adopt new changes to the Federal Subtitle I program, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Montana 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) *Final approval.* Montana has final approval for the following elements of its program application originally submitted to the EPA and approved effective March 4, 1996, and the program revision application approved by EPA effective on October 15, 2019:

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The material cited in this paragraph 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.) The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Montana statutes and regulations that are incorporated by reference in this paragraph from Montana Legislative Services Division, P.O. Box 201706, Helena, MT 59620-1706; Phone number: (406) 444-3064; email: LegPubSales@mt.gov; website: <https://leg.mt.gov/statute/>, and Montana's Secretary of State's Administrative Rules Services, P.O. Box 202801, Helena, MT 59620-2801; Phone number: 406-444-9000; email: sosarm@mt.gov; website: <http://www.mtrules.org/>.

(A) “EPA-Approved Montana Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program” dated May 2019.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Montana Code Annotated (2017), Title 75 Environmental Protection, Chapter 11 Underground Storage Tanks, Part 2 Underground Storage Tank Installer and Inspector Licensing and Permitting Act.* Sections 75-11-203(2), (3), (6), and (7); 75-11-204(1) introductory paragraph; 75-11-218 through 75-11-220; 75-11-223; 75-11-224; and 75-11-232;

(2) *Montana Code Annotated (2017), Title 75 Environmental Protection, Chapter 11 Underground Storage Tanks, Part 5 Montana Underground Storage Tank Act.* Sections 75-11-504; 75-11-505(1); 75-11-510 through 75-11-521; 75-11-525; and 75-11-526; and

(3) *Additional statutes.* The following additional statutes that the State relies on for its enforcement program with respect to Spill Management and Reporting: The Comprehensive Environmental Cleanup and Responsibility Act, MCA section 75-10-701 *et seq.*; the Hazardous Waste Act, MCA Section 75-10-401 *et seq.*; the Solid Waste Management Act MCA section 75-10-201 *et seq.*; and, the Water Quality Act MCA section 75-5-101 *et seq.*

(B) The regulatory provisions include:

(1) *Administrative Rules of Montana (October 6, 2018), Title 17 Department of Environmental Quality, Chapter 56 Underground Storage Tanks Petroleum and Chemical Substances.* Section 17.56.105 Variances; 17.56.309 Requirements for Compliance Inspections; 17.56.311 Permanent Non-Expiring Tags; 17.56.312 Delivery Prohibition; 17.56.508 Numbering Petroleum Releases; section 17.56.606 Public Participation; 17.56.607 Release Categorization; and 17.56.706 Requirement to empty noncompliance USTs.

(2) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified statutes and rules applicable to the Montana underground storage tank program that are broader in coverage than the Federal program, and are not incorporated by reference in this part for enforcement purposes:

(A) *Administrative Rules of Montana (October 6, 2018), Title 17 Department of Environmental Quality, Chapter 56 Underground Storage Tanks Petroleum and Chemical Substances.* Sections

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17.56.102(3)(e); 17.56.308; 17.56.310; 17.56.402(1)(a)(iii); 17.56.701(4); 17.56.903(3); 17.56.1001; and 17.56.1502(1) as it applies to permits; subchapter 13, sections 17.56.1301 through 17.56.1309 and subchapter 14, sections 17.56.1401 through 17.56.1426.

(B) *Montana Code Annotated (2017), Title 75 Environmental Protection, Chapter 11 Underground Storage Tanks, Part 5 Montana Underground Storage Tank Act.* Sections 75-11-203(1), (4), (5), (8)-(10), (14), and (15); 75-11-204(1)(a)-(h) and (2); 75-11-209 through 75-11-214; 75-11-225 through 75-11-227; 75-11-503(8) “underground storage tank” or “tank” as it applies to aboveground storage tanks; 75-11-505(1)(f); and 75-11-509.

(2) *Statement of legal authority.* The Attorney General’s Certification, signed by the Acting Chief Counsel, Special Assistant Attorney General for the State of Montana on November 13, 2018, 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 February 22, 1995, and as part of the program revision application on November 13, 2018, 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 February 22, 1995, and as part of the program revision application on November 13, 2018, 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 8 and the Montana Department of Environmental Quality, signed by the EPA Regional Administrator on September 25, 2018, though not incorporated by reference, is referenced as part of the approved underground stor-

age tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[84 FR 41641, Aug. 15, 2019]

§ 282.77 [Reserved]

§ 282.78 Nevada State-Administered Program.

(a) The State of Nevada 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 Nevada Division of Environmental Protection was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Nevada program on December 24, 1992 and it was effective March 30, 1993.

(b) Nevada 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, Nevada 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 Nevada 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) Nevada has final approval for the following elements submitted to EPA in Nevada’s program application for final approval and approved by EPA on December 24, 1992. Copies may be obtained from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada 89710.

(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.*

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(A) Nevada Statutory Requirements Applicable to the Underground Storage Tank Program, 1992.

(B) Nevada Regulatory Requirements Applicable to the Underground Storage Tank Program, 1992.

(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: Nevada Revised Statutes 459 Underground Storage Tank Program (1992) Sections 459.826, 459.830, 459.832, 459.834, 459.844, 459.846, 459.848, 459.850, 459.852, 459.854, and 459.856.

(B) The regulatory provisions include: none.

(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: none.

(2) *Statement of legal authority.* (i) “Attorney General’s Statement of Final Approval,” signed by the Attorney General of Nevada on December 1, 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.*

(ii) Letter from the Attorney General of Nevada to EPA, dated December 1, 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) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application of October 1, 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.*

(4) *Program description.* The program description and any other material submitted as part of the original application in October 1992, 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 9 and the Nevada Division of Environmental Protection, signed by the EPA Regional Administrator on December 17, 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.*

[63 FR 38500, July 17, 1998]

§ 282.79 New Hampshire State-Administered Program.

(a) The State of New Hampshire 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 New Hampshire Department Environmental Services (NH DES), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the New Hampshire program on June 19, 1991, which was effective on July 19, 1991.

(b) New Hampshire 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, New Hampshire 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 New Hampshire 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) New Hampshire has final approval for the following elements of its program application originally submitted to EPA and approved effective July 19,

1991, and the program revision application approved by EPA, effective on December 31, 2019.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The material cited in this paragraph (d)(1)(i), 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 New Hampshire regulations and statutes that are incorporated by reference in this paragraph (d)(1)(i) from Oil Compliance Section Supervisor, New Hampshire DES, PO Box 29, Concord, NH 03302-0029; Phone number: 603-271-6058; Hours: Monday–Friday, 8:00 a.m. to 4:00 p.m.; link to statutes and regulations: NH RSA 21-O: <http://www.gencourt.state.nh.us/rsa/html/I/21-O-mrg.htm>; NH RSA 91-A: <http://www.gencourt.state.nh.us/rsa/html/vi/91-a/91-a-mrg.htm>; NH RSA 146-C: <http://www.gencourt.state.nh.us/rsa/html/X/146-C/146-C-mrg.htm>; NH RSA 485-C: <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-L-485-C.htm>; NHDES Env-Or 400: <https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-or400.pdf>; NHDES Env-Or 600: <https://www.des.nh.gov/organization/commissioner/legal/rules/documents/env-or600.pdf>.

(A) “New Hampshire Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, October 2018.”

(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) *New Hampshire Revised Statutes Annotated, Title I, The State and its Government, Chapter 21-O, Department of Environmental Services, Section 21-O:9, Waste Management Council; Section 21-O:14 Administrative Appeals.*

(2) *New Hampshire Revised Statutes Annotated, Title X, Public Health, Chapter 146-C Underground Storage Facilities, Section C:5 Records Required, Inspec-*

tions; Section C:9-a Orders, Injunctions; Section C:10 Penalty; Section C:10-a Administrative Fines; Section C:11 Liability for Cleanup Costs, Municipal Regulations; Section C:13 Penalty, Persons Strictly Liable; Section C:14 Delivery Prohibition; Section C:15 Non-Compliant Storage Tanks or Facilities, Red-Tagging Procedure; Section C:16 Appeals.

(3) *New Hampshire Revised Statutes Annotated, Title L, Water Management and Protection, Chapter 485-C Groundwater Protection Act, Section C:15 Investigation and Inspections; Section C:16 Cease and Desist Orders; Section C:17 Appeals; Section C:18 Administrative Fines; Section C:19 Penalties and Other Relief.*

(4) *New Hampshire Revised Statutes Annotated, Title LV, Proceedings in Special Cases, Chapter 541 Rehearings and Appeals in Certain Cases.*

(B) The regulatory provisions include:

(1) *New Hampshire Code of Administrative Rules, Chapter Env-Or 400 Underground Storage Tank Facilities: 404.05(b)(3) Signature Required; 404.11 Suspension or Revocation of Permit to Operate.*

(2) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified statutory and regulatory provisions applicable to the New Hampshire’s UST program 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 Hampshire Code of Administrative Rules, Chapter Env-Or 400 Underground Storage Tank Facilities: 405.05(f) and (g) Spill Containment; 405.07(a)(2) Dispensing Areas; 405.12(a) Day Tank Markings Required; 406.12(c) Spill Containment Integrity Testing; 407.01(a) Application for Approval of UST Systems; 407.06(b–e), (g) and (h) UST System Design Requirements; 408.05(f) Permanent Closure Required; Part Env-Or 409 Waivers.*

(B) [Reserved]

(2) *Statement of legal authority.* The Attorney General’s Statements, signed by the Attorney General of New Hampshire on November 1, 1990, and June 3,

2019, 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 on January 8, 1991, and as part of the program revision application for approval on June 24, 2019 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 January 8, 1991, and as part of the program revision application on June 24, 2019, 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 New Hampshire Department of Environmental Services, signed by the EPA Regional Administrator on February 12, 2019 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.*

[84 FR 58631, Nov. 1, 2019]

§ 282.80 [Reserved]

§ 282.81 New Mexico State-Administered Program.

(a) *History of the approval of New Mexico’s Program.* The State of New Mexico 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 New Mexico Environment Department, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the New Mexico underground storage tank

base program effective on November 16, 1990. A subsequent program revision application was approved effective on October 27, 2020.

(b) *Enforcement authority.* New Mexico has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under Subtitle I of RCRA sections 9003(h), 9005 and 9006, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retaining Program Approval.* To retain program approval, New Mexico must revise its approved program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with RCRA section 9004, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If New Mexico obtains approval for the revised requirements pursuant to RCRA section 9004, 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) *Final Program Approval.* New Mexico has final approval for the following elements of its program application originally submitted to EPA and approved effective November 16, 1990, and the program revision application approved by EPA effective on October 27, 2020:

(1) *State statutes and regulations—(i) Incorporation by reference.* The New Mexico 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.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the New Mexico regulations that are incorporated by reference in this paragraph from New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, NM 87507; Phone number: (505)-476-7941; website <http://164.64.110.134/nmac/>. You may inspect all approved material at the EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270 (Phone

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number (214) 665-2239 or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “EPA-Approved New Mexico Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program”, June 2020. Only those provisions that have been approved by EPA are incorporated by reference. Those provisions are listed in Appendix A to Part 282.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State’s implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include: New Mexico Statutes Annotated (NMSA) 1978, as amended through May 16, 2018:

(1) *Tax Administration Act*, section 7-1-6.25;

(2) *Department of Environment Act*, sections 9-7A-2(A) through (C), 9-7A-3 through 9-7A-12;

(3) *Open Meetings Act*, sections 10-15-1 through 10-15-4;

(4) *Inspection of Public Records Act*, sections 14-2-1 through 14-2-12;

(5) *State Rules Act*, section 14-4-5.2;

(6) *Environmental Improvement Act*, sections 74-1-2, 74-1-3(A), (B), (D), and (F), 74-1-4 through 74-1-6, 74-1-7(A) introductory paragraph and (A)(13), 74-1-8(A) introductory paragraph and (A)(13), 74-1-8.1, 74-1-9, 74-1-10;

(7) *Hazardous Waste Act*, sections 74-4-2, 74-4-3(A) through (D), (F), (M), (N), (Q), and (V), 74-4-4 (except (A), (J), and (K)), 74-4-4.3, 74-4-4.8, 74-4-5, 74-4-7, 74-4-8, 74-4-10, 74-4-11(C), 74-4-12 through 74-4-14; and

(8) *Groundwater Protection Act*, sections 74-6B-2 through 74-6B-8, 74-6B-13, 74-6B-14.

(B) The regulatory provisions include: New Mexico Administrative Code (NMAC) Title 20 Environmental Protection, Chapter 5 Petroleum Storage Tanks, as amended effective July 24, 2018: Part 107 General Operating Requirements for Underground Storage

Tank Systems, section 20.5.107.712 Department Review and Approval of Plans, Installation, Operation, and Maintenance;

Part 116 Delivery Prohibition; Part 123 Corrective Action Fund Administration; and Part 125 Administrative Review.

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the New Mexico underground storage tank program that 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 Annotated (NMSA) 1978, as amended through May 16, 2018: Hazardous Waste Act, section 74-4-4.4; and Groundwater Protection Act, section 74-6B-9 and 74-6B-10.

(B) New Mexico Administrative Code (NMAC) Title 20 Environmental Protection, Chapter 5 Petroleum Storage Tanks, as amended effective July 24, 2018: Part 102, section 202 New Storage Tank Systems; Part 103 Annual Fee; Part 105 Certification of Tank Installers and Junior Installers; Requirements for Testers, section 509 Experience Requirements; Part 106 New and Upgraded Underground Storage Tank Systems: Design, Construction, and Installation, section 20.5.106.614 Loading Racks; Part 115 Out-of-Service Storage Tank Systems and Closure, sections 1501.C(3), 1501.E, 1501.F(3), and 1501.G [for field-erected AST systems only]; Part 119 Corrective Action for Storage Action Tank Systems Containing Petroleum Products, sections 20.5.119.1900.G and 20.5.119.1900.H; Part 120 Corrective Action for UST Systems Containing Other Regulated Substances, sections 20.5.120.2000.G and 20.5.120.2000.H; and Part 122 Qualification of Persons Performing Corrective Action.

(2) *Statement of legal authority.* The Attorney General’s Statement, signed by the Special Assistant Attorney General of New Mexico June 25, 1990, and revisions to that Statement dated October 5, 2018, 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 “Adequate Enforcement of Compliance” submitted as part of the original application on September 25, 1989 and as part of the program revision application for approval on October 11, 2018, 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 September 25, 1989 and as part of the program revision application October 11, 2018, 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 Environment Department, signed by the EPA Regional Administrator on July 29, 2019 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.*

[85 FR 53184, Aug. 28, 2020]

§ 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 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,

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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:

(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 requirements 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 20: 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) *History of the approval of North Dakota’s Program.* 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 Environmental Quality (DEQ) was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the North Dakota underground storage tank base program effective on December 10, 1991. A subsequent program revision application was approved by EPA and became effective on March 15, 2019.

(b) *Enforcement authority.* North Dakota has primary responsibility for administering and enforcing its federally approved underground storage tank

program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Approval.* 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) *Program authorization.* North Dakota has final approval for the following elements of its program application originally submitted to EPA and approved effective December 10, 1991, and the program revision application approved by EPA effective on March 15, 2019:

(1) *State statutes and regulations—(i) Incorporation by reference.* The North Dakota provisions cited in this paragraph and listed in Appendix A to this part, are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the North Dakota regulations that are incorporated by reference in this paragraph from North Dakota Legislative Council, Second Floor, State Capitol, 600 E Boulevard Avenue, Bismarck, North Dakota 58504, phone 701-328-2916, website: <https://www.legis.nd.gov/agency-rules/north-dakota-administrative-code>. You may inspect a copy at EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202 (Phone number 303-312-6231 or the National Archives and Records Administration (NARA)). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or

go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “EPA-Approved North Dakota Regulatory Requirements Applicable to the Underground Storage Tank Program,” dated April 2019.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State’s implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include: North Dakota Century Code (2019), Title 1 “General Provisions,” Chapter 1-01, “General Principles and Definitions,” Section 1-01-49(8) “Person;” Title 23.1 “Environmental Quality,” Chapter 01 “Department of Environmental Quality,” Sections 23.1-01-01 and 23.1-01-04; Chapter 04 “Hazardous Waste Management,” Sections 23.1-04-01 introductory paragraph, .1, .5, and .6; 23.1-04-02 introductory paragraph, .2, .9 through .11, and .16; 23.1-04-03; 23.1-04-06; and 23.1-04-12 through 23.1-04-15.

(B) The regulatory provisions include: North Dakota Administrative Code Chapter 33.1-24-08, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, as amended effective January 1, 2019, Sections 33.1-24-08-36 Applicability (Delivery Prohibition), 33.1-24-08-37 Criteria for Delivery Prohibition, and 33.1-24-08-57 Public Participation.

(2) *Statement of legal authority.* The Attorney General’s Statement, signed by the Attorney General of North Dakota on February 28, 1991, and by the Assistant Attorney General on July 26, 2018, 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 April 4, 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) *Enforcement Agreement.* The “North Dakota State and EPA Region 8 Enforcement Agreement” submitted as part of the program revision application on July 26, 2018, 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.*

(5) *Program description.* The program description and any other material submitted as part of the original application April 4, 1991, and as part of the program revision application on July 26, 2018, 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.*

(6) *Memorandum of Agreement.* The Memorandum of Agreement between North Dakota and the EPA Region 8, signed by the EPA Regional Administrator on November 9, 2018, 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.*

[84 FR 65688, Nov. 29, 2019]

§ 282.85 [Reserved]

§ 282.86 Oklahoma State-Administered Program.

(a) *History of the approval of Oklahoma’s Program.* The State of Oklahoma 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 Oklahoma Corporation Commission, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the Oklahoma underground storage tank base program effective on October 14, 1992. A subsequent program revision application was approved effective on March 12, 2018.

(b) *Enforcement authority.* Oklahoma has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective ac-

tion, inspection and enforcement authorities under sections 9003(h), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Oklahoma 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 Oklahoma 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) Oklahoma has final approval for the following elements of its program application originally submitted to EPA and approved effective October 14, 1992, and the program revision application approved by EPA effective on March 12, 2018:

(1) *State statutes and regulations—(i) Incorporation by reference.* The Oklahoma 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.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Oklahoma regulations that are incorporated by reference in this paragraph from the State’s Office of Administrative Rules, Secretary of State, P.O. Box 53390, Oklahoma City, OK 73152-3390; Phone number: 405-521-4911; website: <https://www.sos.ok.gov/oar/Default.aspx>. You may inspect all approved material at the EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102; Phone number (214) 665-2239 or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

(A) The binder entitled “Oklahoma Regulatory Requirements Applicable

to the Underground Storage Tank Program, October 2017. Those provisions are listed in Appendix A to Part 282.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Oklahoma Statutes (2016), Title 17, "Corporation Commission"*: Chapter 3, "Oil and Gas", Section 52(A)(k)(5); Chapter 14, "Oklahoma Storage Tank Regulation Act", Sections 301, 302, 303 (except 303.22 "Permit"), 305, 306, 307, 309 through 316, 319, 321 through 325, 330 and 340; Chapter 15, "Oklahoma Petroleum Storage Tank Release Indemnity Program", Sections 350 through 365.

(2) *Oklahoma Statutes (2016), Title 27A, "Environmental and Natural Resources"*: Chapter 1, Article III, "Jurisdiction of Environmental Agencies", Section 1-3-101(E)(5)(a)-(c).

(3) *Oklahoma Statutes (2016), Title 52, "Oil and Gas"*: Chapter 5, "Inspections", Sections 321 through 347.

(B) The regulatory provisions include:

(1) *Oklahoma Administrative Code, Title 165, effective August 25, 2016*:

(i) Chapter 5, "Rules of Practice": Subchapter 1, "General Provisions", Sections 165:5-1-4(b) and 165:5-1-25; Subchapter 5, "Dockets": Sections 165:5-5-1(a)(9) and (a)(10); Subchapter 21, "Procedure for the Petroleum Storage Tank Docket": Sections 165:5-21-1 through 165:5-21-5, 165:5-21-8 through 165:5-21-10;

(ii) Chapter 15, "Fuel Inspection": Subchapter 3, "Fuel Specialists, Testing, Accessibility, and Assistance", Sections 165:15-3-1, through 165:15-3-3, 165:15-3-16, 165:15-3-21, 165:15-3-21 through 165:15-3-24.1; Subchapter 19, "Violations and Contempt", Sections 165:15-19-1 through 165:15-19-5.

(iii) Chapter 25, "Underground Storage Tanks": Subchapter 1, "General Provisions": Part 5, "Scope of Rules", Section 165:25-1-24.1; Part 6, "Administrative Provisions", Sections 165:25-1-26.1 through 165:25-1-30.1; Part 15, "Shutdown of Operations", Section 165:25-1-67; Part 17, "Licensing Proce-

dures", Sections 165:25-1-107; Part 19 "Operator Training", Section 165:25-1-126; Subchapter 2, "General Requirements for Underground Storage Tank Systems": Subchapter 18, "Inspections, Notices of Violations and Citations": Part 1, "Inspections", Sections 165:25-18-1 through 165:25-18-4; Part 3, "Notices of Violation and Citations", Sections 165:25-18-10 through 165:25-18-13; Part 5, "Penalties", Section 165:25-18-19; Appendix Q and Appendix S.

(iv) Chapter 27, "Indemnity Fund". Subchapter 1, "General Provisions": Sections 165:27-1-1 and 165:27-1-3 through 165:27-1-6; Subchapter 3, "Eligibility Requirements", Sections 165:27-3-1 and 165:27-3-2; Subchapter 5, "Qualifications for Reimbursement", Sections 165:27-5-1 and 165:27-5-3. Subchapter 7, "Reimbursement", Sections 165:27-7-1, 165:27-7-7, 165:27-7-8, 165:27-7-9, 165:27-7-9.1, 165:27-7-10 and 165:27-7-11; Subchapter 9, "Administrative Provisions", Sections 165:27-9-1 through 165:27-9-4.

(v) Chapter 29, "Corrective Action of Petroleum Storage Tank Releases", Subchapter 1, "General Provisions", Part 1, "Purpose and Statutory Authority", Section 165:29-1-3; Subchapter 3, "Release Prevention, Detection and Correction", Part 5, "Corrective Action Requirements", Section 165:29-3-81. Subchapter 5 "Administrative Provisions": Sections 165:29-5-1 and 165:29-5-4.

(2) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Oklahoma underground storage tank program that are broader in coverage than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes:

(A) *Oklahoma Statutes (2016), Title 17, "Corporation Commission"*: Chapter 14, "Oklahoma Storage Tank Regulation Act", Section 303.22 "Permit", 306.1, 308, 308.1 and 318.

(B) *Oklahoma Administrative Code, Title 165, effective August 25, 2016*: Chapter 25, "Underground Storage Tanks". Subchapter 1, "General Provisions": Part 9, "Notification and Reporting Requirements", Sections 165:25-1-41,

and 165:25–1–42; Part 13, “Fees”, Section 165:25–1–64; Chapter 29, “Corrective Action of Petroleum Storage Tank Releases”, Part 7, “Licensing of Environmental Consultants”, Section 26–3–90.

(2) *Statement of legal authority.* The Attorney General’s Statements, signed by the Attorney General of Oklahoma on June 21, 1990 and November 14, 2016, 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 on June 25, 1989 and as part of the program revision application for approval on January 25, 2017 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 June 25, 1989 and as part of the program revision application on January 25, 2017, 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 Oklahoma Corporation Commission, signed by the EPA Regional Administrator on September 19, 2017 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.*

[83 FR 990, Jan. 9, 2018, as amended at 84 FR 44232, Aug. 23, 2019]

§ 282.87 Oregon State-Administered Program.

(a) The State of Oregon 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 Oregon

Department of Environmental Quality (DEQ), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the Oregon underground storage tank base program effective on September 16, 2011. A subsequent program revision application was approved by the EPA and became effective on September 24, 2019.

(b) Oregon has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, the EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under Sections 9003(h), 9005, and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Oregon 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 Oregon obtains approval for the revised requirements pursuant to Section 9004 of RCRA, 42 U.S.C. 6991c, then 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) Oregon has final approval for the following elements of its program application originally submitted to the EPA and approved effective September 16, 2011, and the program revision application approved by the EPA, effective on September 24, 2019:

(1) *State statutes and regulations.* (i) The materials cited in this paragraph (d)(1) are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*, with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the EPA must publish a document in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at EPA Region 10, 1200 Sixth Avenue,

Suite 155, Seattle, WA 98101, phone number (206) 553-6693. Copies of Oregon's program application may be obtained from the Underground Storage Tank Program, Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon, 97204. All approved material is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, call 202-741-6030 or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

(A) Oregon Statutory Requirements Applicable to the Underground Storage Tank Program, June 2018.

(B) Oregon Regulatory Requirements Applicable to the Underground Storage Tank Program, June 2018.

(ii) The EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include:

(1) Oregon Revised Statutes, Chapter 183, Administrative Procedures Act, 2017, insofar as the provisions and procedures apply to the underground storage tank program.

(2) Chapter 465, Hazardous Waste and Hazardous Materials I (Removal or Remedial Action: Sections 465.200-465.482 and 465.900), insofar as these provisions apply to matters involving an "underground storage tank" as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved State program, although not incorporated by reference herein for enforcement purposes: Sections 465.205 through 465.250, 465.257 through 465.300, 465.310 through 465.335, 465.400 through 465.435, 465.445 through 465.455 and 465.900.

(3) Chapter 466, Hazardous Waste and Hazardous Materials II (Oil Storage Tanks: Sections 466.706-466.920 and Sections 466.990-466.995), insofar as these provisions apply to matters involving an "underground storage tank" as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating

oil for consumptive use on the premises where stored. The following Sections are part of the approved State program, although not incorporated by reference herein for enforcement purposes: Sections 466.715 through 466.735, 466.746, 466.760, 466.775 through 466.780, 466.791 through 466.810, 466.820, 466.830 through 466.845, 466.901 through 466.920 and 466.994 through 466.995.

(4) Chapter 468 Environmental Quality Generally, insofar as these provisions apply to matters involving an "underground storage tank" as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved State program, although not incorporated by reference herein for enforcement purposes: Sections 468.005 through 468.050, 468.090 through 468.140 and 468.963.

(B) The regulatory provisions include:

(1) Oregon Administrative Rules, Chapter 340, Division 11: Section 340-11-0545.

(2) Oregon Administrative Rules, Chapter 340, Division 12: Sections 340-012-0026 through 340-012-0053, 340-012-0067 (with the exception of subparagraphs (1)(k) and (l) and (2)(g) through (j)), 340-012-0074 (with the exception of subparagraph (1)(g)) and 340-012-0170 insofar as this applies to violations involving an underground storage tank.

(3) Oregon Administrative Rules, Chapter 340, Division 122: Sections 340-122-0074 through 340-122-0079 and 340-122-0130 through 340-122-0140.

(4) Oregon Administrative Rules, Chapter 340, Division 142: Section 340-142-0120.

(5) Oregon Administrative Rules, Chapter 340, Division 150: Sections 340-150-0150 through 340-150-0152, 340-150-0250, 340-150-0600 through 340-150-0620.

(6) Oregon Code of Civil Procedure 33C.

(7) Oregon Administrative Rules, Chapter 690, Division 240, insofar as these provisions apply to matters involving an "underground storage tank" as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the

term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved State program, although not incorporated by reference herein for enforcement purposes: Sections 690-240-0015, 690-240-0020, 690-240-0055 through 690-240-0340 and 690-240-0560 through 690-240-0640.

(iii) The following specifically identified sections and rules applicable to the Oregon underground storage tank program that 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) Chapter 465, Hazardous Waste and Hazardous Materials I (Removal or Remedial Action): Sections 465.305; 465.340 through 465.391; 465.440; and 465.475 through 465.482.

(2) Chapter 466, Hazardous Waste and Hazardous Materials II (Oil Storage Tanks): Sections 466.750; 466.783 through 466.787; 466.858 through 466.882; and 466.990 through 466.992).

(3) Chapter 468, Environmental Quality Generally: Sections 468.055 through 468.089.

(B) The regulatory provisions include:

(1) Oregon Administrative Rules, Chapter 340: Divisions 160, 162, 163, 170, 177 and 178.

(2) Oregon Administrative Rules, Chapter 837, Division 40.

(2) *Statement of legal authority.* The Attorney General Statement, a letter signed on October 12, 2018, 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 application for approval on October 19, 2018, 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 appli-

cation on October 19, 2018, 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 10 and the Oregon Department of Environmental Quality, signed by the EPA Regional Administrator on March 19, 2019, 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.*

[84 FR 36005, July 26, 2019]

§ 282.88 Pennsylvania State-Administered Program.

(a) The Commonwealth of Pennsylvania’s underground storage tank program is approved in lieu of the Federal program in accordance with 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 Pennsylvania Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Pennsylvania underground storage tank program on September 11, 2003, and approval was effective on September 11, 2003.

(b) The Commonwealth has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, the Commonwealth must revise its approved program to adopt new changes to the Federal Subtitle I program that make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If the Commonwealth obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c,

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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) The Commonwealth has final approval for the following elements submitted to EPA in the State's program application for final approval. On September 11, 2003, EPA published a rule approving the State's program in the FEDERAL REGISTER, 66 FR 53520. That approval became effective on September 11, 2003. Copies of the Commonwealth's program application may be obtained from the Pennsylvania Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Storage Tank Program, Rachel Carson State Office Building, Harrisburg, PA 17105-8762.

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

(A) Pennsylvania Statutory Requirements Applicable to the Underground Storage Tank Program, 2002.

(B) Pennsylvania Regulatory Requirements Applicable to the Underground Storage Tank Program, 2002.

(ii) EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include:

(1) Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32

35 PS Section 6021.107 Powers and duties of department (*insofar as paragraphs (b), (c), (e), and (f) grant the department enforcement authorities*)

35 PS Section 6021 Ch. 13 Enforcement

(2) Title 35. Health and Safety; Chapter 44. Environmental Hearing Board Act

35 P.S. Section 7514 Jurisdiction

(3) Title 71. Article IV. Organization of Departmental Administrative Boards and Commissions and of Advisory Boards and Commissions

71 P.S. Section 180-1 Environmental Quality Board

(4) Title 71. Article XIX-A. Powers and Duties of the Department of Envi-

ronmental Resources, its Officers and Departmental and Advisory Boards and Commissions

71 P.S. Section 510-17 Abatement of nuisances

71 P.S. Section 510-20 Environmental Quality Board

(B) The regulatory provisions include:

(1) Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

Section 245.303 General

(2) Pennsylvania Rules of Civil Procedure

Pa R.C.P. Rule 2326 Definitions

Pa R.C.P. Rule 2327 Who May Intervene

Pa R.C.P. Rule 2328 Petition to Intervene

Pa R.C.P. Rule 2329 Action of Court on Petition

Pa R.C.P. Rule 2330 Practice

(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. These provisions are not federally enforceable.

(A) The statutory provisions include:

Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32

35 PS Section 6021.103 Definitions (*insofar as the section addresses aboveground storage tanks; encompasses a broader range of regulated substances; and insofar as certain classes of tanks excluded or deferred under the federal definition of "underground storage tank" are not excluded or deferred under the state definition*)

35 PS Section 6021.106 Powers and duties of Environmental Quality Board (*insofar as it addresses aboveground storage tanks*)

35 PS Section 6021.107 Powers and duties of department (*insofar as paragraph (d) establishes the Department's duties regarding a certification program*)

35 PS Section 6021.108 Interim certification of installers and inspectors (*insofar as the section establishes a certification program for installers and inspectors*)

35 PS Section 6021 Ch 3 Aboveground storage tanks (*insofar as the Chapter regulates aboveground storage tanks*)

35 PS Section 6021.501 Underground storage tank requirements (*insofar as subparagraph (a)(1) requires payment of registration fees; subparagraph (a)(8) sets forth permitting requirements; subparagraph (a)(12) addresses permitting; subparagraph (a)(15) regulates handlers of regulated substances; and paragraph (c) establishes a certified installer and inspector program*)

35 PS Section 6021.502 Interim requirements and discontinued use (*insofar as paragraph (a) establishes interim registration fees; and subparagraph (b)(5) requires tanks to be installed by a certified installer*)

35 PS Section 6021.503 Registration (*insofar as paragraph (a) requires payment of registration fees; paragraph (b) regulates selling, distributing, depositing, or filling unregistered underground storage tanks; and paragraph (c) establishes uses for registration fees*)

35 PS Section 6021.504 Permits and plans

35 PS Section 6021.506 Small operator assistance program for underground storage tanks

35 PS Section 6021.507 Reimbursement for testing

35 PS Section 6021.702 Storage Tank Fund (*insofar as paragraph (a) addresses aboveground storage tanks*)

35 PS Section 6021.704 Underground Storage Tank Indemnification Fund (*insofar as subparagraph (e)(3) addresses payment of fees*)

35 PS Section 6021.705 Powers and duties of Underground Storage Tank Indemnification Board (*insofar as paragraphs (d) and (e) address payment of fees*)

35 PS Section 6021 Ch 9 Spill Prevention Response Plan

35 PS Section 6021 Ch 11 Siting of New Aboveground Storage Tank Facility and Regulations

35 PS Section 6021.2101 Start-up costs (*insofar as it addresses aboveground storage tanks*)

(B) The regulatory provisions include:

Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

Section 245.1 Definitions (*insofar as the section addresses aboveground storage tanks; insofar as it encompasses a broader range of regulated substances; and insofar as it includes individuals that are not regulated under the federal program under its definition of “responsible party”*)

Section 245.21 Tank handling and inspection requirements (*insofar as the section imposes requirements on tank installers and addresses requirements for aboveground tanks*)

Section 245.31 Underground storage tank tightness testing requirements (*insofar as paragraph (a) requires Department certification for underground tightness testing installers*)

Ch 245, Subch. B Certification Program for Installers and Inspectors of Storage Tanks and Storage Tank Facilities (*insofar as the Subchapter establishes a certification program*)

Ch 245, Subch. C Permitting of Underground and Aboveground Storage Tank Systems and Facilities (*insofar as the Subchapter establishes a permitting program*)

Section 245.305 Reporting releases (*insofar as paragraph (h) addresses aboveground storage tanks*)

Section 245.306 Interim remedial actions (*insofar as subparagraph (b)(3) requires permits for treatment and disposal activities; and paragraph (d) regulates parties removing contaminated materials*)

Section 245.411 Inspection frequency (*insofar as the section addresses inspections by certified inspectors*)

Section 245.424 Standards for new field constructed tank systems (*insofar as the section sets forth requirements that exceed the federal requirements*)

Section 245.425 Reuse of removed tanks (*insofar as subparagraph (1) requires installation by a certified installer*)

Section 245.434 Repairs allowed (*insofar as subparagraph (1) requires repairs to be performed by a certified installer*)

Section 245.441 General requirements for underground storage tank systems (*insofar as subparagraph (a)(3)(i) requires third-party verification; and subparagraph (a)(3)(ii) requires manufacturers to reevaluate methods within 24 months of EPA changes*)

Ch 245, Subch. F Technical standards for Aboveground Storage Tanks and Facilities (*insofar as the Subchapter addresses aboveground storage tanks*)

Ch 245, Subch. G Simplified Program for Small Aboveground Storage Tanks (*insofar as the Subchapter addresses aboveground storage tanks*)

(2) *Statement of legal authority.* (i) “Attorney General’s Statement,” signed by the State Attorney General on October 1, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Pennsylvania to EPA, October 1, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with 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 November 25, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material

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submitted as part of the original application on November 25, 2002, though not incorporated by reference, are referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 3 and the Pennsylvania Department of Environmental Protection, signed by the EPA Regional Administrator on August 22, 2003, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[71 FR 13770, Mar. 17, 2006]

§ 282.89 Rhode Island State-Administered Program.

(a) The State of Rhode Island 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 Rhode Island Department of Environmental Management (RI DEM), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Rhode Island program on February 3, 1993, which was effective on March 5, 1993.

(b) Rhode Island 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, Rhode Island 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 Rhode Island 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) Rhode Island has final approval for the following elements of its program application originally submitted to EPA and approved effective March 5, 1993, and the program revision application approved by EPA, effective on February 9, 2021.

(1) *State statutes and regulations—(i) Incorporation by reference.* The material cited in this paragraph (d)(1)(i), 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 Rhode Island regulations and statutes that are incorporated by reference in this paragraph (d)(1)(i) from Kevin Gillen, Rhode Island DEM, 235 Promenade Street, Providence, RI 02908-5767; Phone number: 401-222-2797; kevin.gillen@dem.ri.gov, Hours: Monday–Friday, 7:00 a.m. to 3:30 p.m.; link to statutes and regulations: State of Rhode Island General Laws: <https://webserver.rilin.state.ri.us/Statutes/>; <http://www.dem.ri.gov/programs/wastemanagement/ust/>. You may inspect all approved material at the EPA Region 1 Office, 5 Post Office Square, 1st floor, Boston, MA 02109-3912; Phone Number: (617) 918-1313; or the National Archives and Records Administration (NARA), Email: fedreg.legal@nara.gov, website: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “EPA-Approved Rhode Island Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, May 2020.”

(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) *Rhode Island General Laws, Title 38: Public Records*; Chapter 38-1, Custody and Protection of Public Records; Chapter 38-2, Access to Public Records;

and 38–3, Administration of Public Records.

(2) *Rhode Island General Laws, Title 42—Affairs and Government*; Chapter 42–17.1–2(20), Department of Environmental Management, Powers and Duties to Enter, Examine or Survey for Criminal Investigations; Chapter 42–17.6, Administrative Penalties for Environmental Violations.

(3) *Rhode Island General Laws, Title 46—Waters and Navigation*; Chapter 46–12—Water Pollution, Section 12–3, Powers and Duties of the Director, except (21); Section 12–9, Notices of Violation and Compliance Orders; 12–10, Emergency Powers; 12–13, Civil Penalties; 12–14, Criminal Penalties; 12–15, Inspection Powers—Rules and Regulations; and Section 12–22, Access of Enforcement Officers to Premises.

(B) The regulatory provisions include:

(1) *Title 250—Department of Environmental Management, Chapter 140—Waste and Materials Management, Subchapter 25—Oil and Underground Tanks, Part 1—Rhode Island Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials*, adopted as 250–RICR–140–25–1, Section: 1.10(T) Delivery Prohibition; 1.16(F) Suspension or Revocation of License; 1.16(G) Procedure for Suspension and Revocation; 1.16(H) Requests for Hearings; 1.21 Appeals; 1.22 Penalties.

(2) *Title 250—Department of Environmental Management, Chapter 20—Legal Services, Subchapter 00—N/A, Part 1—Administrative Rules of Practice and Procedure for the Department of Environmental Management 20–00–1*, adopted as 250–RICR–20–00–1.

(3) *Title 250—Department of Environmental Management, Chapter 130—Compliance and Inspection, Subchapter 00—N/A, Part 1—Rules and Regulations for Assessment of Penalties*, adopted as 250–RICR–130–00–1.

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

(A) *Rhode Island Rules and Regulations for Underground Storage Facilities Used for Regulated Substances and Hazardous Materials*, 250–RICR–140–25–1, Section: 1.4(E) Partial regulation of residential tanks storing heating oil at one, two, or three-unit dwellings and farm tanks storing heating oil for non-commercial purposes; 1.4(G) Partial regulation of holding tanks; 1.7(A) Registration applies to all farm and residential tanks containing heating or fuel oils consumed on-site and containing motor fuels for on-site use; 1.9 The Rhode Island UST Financial Responsibility Fund; 1.10 Minimum UST Operation and Maintenance Requirements, (C), (D), (F)(4) and (J); 1.11 New and Replacement UST System Requirements, (B)(1–3) and (5), (C)(1), (J)(1), and (L)(2); 1.12 Facility Modifications or Repairs, (A); 1.15 Closure, (D)(5); 1.16 Approval of Tank and/or Line Tightness Tests, Leak Detection Methods and Licensing Requirements, (B), (D), and (E); 1.19 Holding Tanks; 1.20 Variances.

(B) [Reserved]

(2) *Statement of legal authority.* The Attorney General’s Statements, signed by the Attorney General of Rhode Island on July 1, 1992, and January 23, 2020, 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 on July 2, 1992, and as part of the program revision application for approval on February 4, 2020, 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 July 2, 1992, and as part of the program revision application on February 4, 2020, 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 Rhode Island Department of Environmental Services, signed by the EPA Regional Administrator on February 12, 2019, 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.*

[85 FR 79878, Dec. 11, 2020]

§ 282.90 South Carolina State-Administered Program.

(a) *History of the approval of South Carolina's program*. The State of South Carolina (South Carolina or State) is approved to administer and enforce an underground storage tank (UST) program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA or Act), as amended, 42 U.S.C. 6991 *et seq.* The State's Underground Storage Tank Program (UST Program), as administered by the South Carolina Department of Health and Environmental Control (DHEC), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the South Carolina UST Program on August 28, 2002 and it was effective on September 27, 2002. A subsequent program revision was approved by EPA and became effective May 24, 2021.

(b) *Enforcement authority*. South Carolina has primary responsibility for administering and enforcing its federally approved UST Program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval*. To retain program approval, South Carolina must revise its approved UST 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 South Carolina obtains approval for 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) *Final approval*. South Carolina has final approval for the following elements of its UST Program submitted to EPA and approved effective September 27, 2002, and the program revisions approved by EPA effective on May 24, 2021:

(1) *State statutes and regulations—(i) Incorporation by reference*. The South Carolina materials cited in this paragraph (d)(1)(i), and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may access copies of the South Carolina statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from the South Carolina State Register, 223 Blatt Building, 1105 Pendleton Street, Columbia, South Carolina 29201; Phone number: (803) 212-4500; website: <https://www.scstatehouse.gov/>. You may inspect all approved material at EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562-9900; or the National Archives and Records Administration (NARA), email: fedreg.legal@nara.gov, website: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “South Carolina Statutory Requirements Applicable to the Underground Storage Tank Program,” dated September 9, 2020.

(B) “South Carolina Regulatory Requirements Applicable to the Underground Storage Tank Program,” dated September 9, 2020.

(ii) *Legal basis*. EPA considered the following statutes and regulations which provide the legal basis for the State's implementation of the UST Program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) *State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44-2-10 to 44-2-150 (2010)*. (1) Section 44-2-50(A) and (C) Regulations to be promulgated.

Insofar as it provides for the promulgation of regulations for the implementation, compliance monitoring, and enforcement of the UST Program.

(2) Section 44–2–70(B) Financial responsibility of underground storage tank owners and operators. As to the first sentence, insofar as it provides for the promulgation of regulations specifying financial responsibility requirements and for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from operating an underground storage tank.

(3) Section 44–2–140 Enforcement of chapter or department order, penalties for violations. Insofar as it provides for compliance monitoring and enforcement of the underground storage tank requirements.

(B) *South Carolina Underground Storage Tank Control Regulations, R. 61–92 (2017)*. (1) Section 280.26, Delivery Prohibitions. Insofar as it identifies specific authorities for enforcement response and delivery prohibition requirements.

(2) Section 280.67, Public Participation. Insofar as it identifies specific authorities for enabling public participation in the corrective action process.

(3) Section 280.301, Violations and Penalties. Insofar as it provides for notice to violators, assessment of penalties, criminal prosecution, and appeals under the SUPERB Act.

(4) Section 280.302, Appeals. Insofar as it provides for appeal of any determination by DHEC under the provisions of S.C. Code Ann. Regs. 61–72, Procedures for Contested Cases, and the State Administrative Procedures Act.

(C) *SUPERB Site Rehabilitation and Fund Access Regulations, R.61–98*. Insofar as it contains requirements for site rehabilitation for releases from underground storage tanks, access to the SUPERB Account, and certification of site rehabilitation contractors.

(D) *South Carolina Rules of Civil Procedure, Rule 24(a)(2), Intervention*. Insofar as it provides for public participation in the State enforcement process.

(iii) *Other provisions not incorporated by reference*. The following statutory and regulatory provisions applicable to the South Carolina UST Program are broader in scope than the Federal pro-

gram or external to the state UST program approval requirements. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference herein:

(A) *State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44–2–10 to 44–2–150 (2010)*.

(1) Section 44–2–40, insofar as it provides for the creation of a SUPERB Account and SUPERB Financial Responsibility Fund (collectively, “State funds”), and establishes criteria for accessing the funds.

(2) Section 44–2–50(B), is external insofar as it contains obligations on the State agency, not a regulated entity.

(3) Section 44–2–60, insofar as it requires registration, beyond the Federal notification requirements, and the payment of registration fees for underground storage tanks.

(4) Section 44–2–75, insofar as it provides for a means of establishing insurance pools to demonstrate financial responsibility.

(5) Section 44–2–90, insofar as it refers to interest collected on State funds and the sunset date of the environmental impact fee.

(6) Section 44–2–110, insofar as it establishes criteria for qualified expenditure of funds from the SUPERB Account.

(7) Section 44–2–115, insofar as it regulates eligibility for the SUPERB Account.

(8) Section 44–2–120, insofar as it establishes requirements for site rehabilitation contractors.

(9) Section 44–2–130, insofar as it establishes criteria for compensation from the SUPERB Account.

(10) Section 44–2–150, insofar as it establishes provisions for the creation and operations of a SUPERB Advisory Committee.

(B) *South Carolina Underground Storage Tank Control Regulations, R.61–92 (2017)*. (1) Section 280.10(d), insofar as it requires UST systems to be permitted or registered with DHEC.

(2) Section 280.20, as to the text “obtain permits in accordance with section 280.23 and” in the introductory paragraph, and the text “on the Permit to Operate application form in accordance with Section 280.23” in (f), insofar

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as they require UST systems to be permitted by DHEC.

(3) Sections 280.22(h) and (i), insofar as they require UST systems to be registered with DHEC.

(4) Section 280.23, insofar as it requires UST systems to be permitted by DHEC.

(5) Sections 280.101(b) through (e), insofar as they establish regulations for the administration of the State funds.

(6) Section 280.240(b), is external insofar as it contains obligations on the State agency, not a regulated entity.

(7) Section 280.300, insofar as it gives DHEC broad authority to grant variances that may be beyond the scope of that allowed by the Memorandum of Agreement between DHEC and EPA.

(2) *Statement of legal authority.* The Attorney General's Statement and Statement of Independent Legal Counsel, signed by DHEC's General Counsel in lieu of the Attorney General on March 27, 2019, 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 Adequate Enforcement Procedures" submitted on April 16, 2019, 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 on April 16, 2019, 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 South Carolina DHEC, signed by the EPA Regional Administrator on October 12, 2018, 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.*

[86 FR 15600, Mar. 24, 2021]

§ 282.91 South Dakota State-Administered Program.

(a) The State of South 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 South Dakota Department of Environment and Natural Resources, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the South Dakota program on March 16, 1995 and it was effective on May 15, 1995.

(b) South 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, South 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 South 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) South Dakota has final approval for the following elements submitted to EPA in South Dakota's program application for final approval and approved by EPA on [insert date of publication]. Copies may be obtained from the Underground Storage Tank Program, South Dakota Department of Environment and Natural Resources, 523 East Capitol, Pierre, South Dakota 57501.

(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.*

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40 CFR Ch. I (7–1–24 Edition)

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

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

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

(A) The statutory provisions include: South Dakota Codified Law, Water Pollution Control, Chapter 34A–2, Sections 46 and 48, Sections 72 through 75, Chapters 34A–10 and 34A–12.

(iii) The following statutory 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) South Dakota statutes Annotated, Chapter 34A–2, Section 100, insofar as it applies to above ground stationary storage tanks, Section 102, insofar as it applies to installation of above ground stationary storage tanks, Section 101, insofar as it applies to corrective action for above ground stationary storage tanks.

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the Attorney General of South Dakota on June 17, 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.*

(ii) Letter from the Attorney General of South Dakota to EPA, June 17, 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) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the complete application in October 1993, 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 appli-

cation in June 1992, 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 VIII and the South Dakota Department of Environment and Natural Resources, signed by the EPA Regional Administrator on February 23, 1995, 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.*

[60 FR 14336, Mar. 16, 1995]

EFFECTIVE DATE NOTE: At 89 FR 42395, May 15, 2024, § 282.91 was revised, effective July 15, 2024. For the convenience of the user, the revised text is set forth as follows:

§ 282.91 South Dakota State-Administered Program.

(a) The State of South 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 South Dakota Department of Agriculture and Natural Resources (Department), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. On March 16, 1995, EPA published the notice of final determination approving the South Dakota underground storage tank base program effective May 15, 1995. A subsequent program revision application was approved by EPA and became effective on July 15, 2024.

(b) South Dakota has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, South 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 South 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.

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(d) South Dakota has final approval for the following elements of its program application originally submitted to EPA and approved effective May 15, 1995, and the program revision application approved by EPA effective on July 15, 2024:

(1) *State statutes and regulations*—(i) *Incorporation by reference*. The South Dakota provisions cited in this paragraph (d)(1)(i) are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the South Dakota statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from South Dakota Legislative Research Council, 3rd Floor, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070; Phone number: 605-773-3251; email: LRC@sdlegislature.gov; website: <https://sdlegislature.gov>.

(A) You may inspect all approved material at EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, phone number 303-312-6633, or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, call 202-741-6030 or go to <https://www.archives.gov/federal-register/cfr/ibr-locations>.

(B) EPA-Approved South Dakota Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, dated June 2022.

(ii) *Legal basis*. EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *South Dakota Codified Laws (2021), Title 34A Environmental Protection, Chapter 2 Water Pollution Control: Sections 98 Underground Storage Tanks—Definitions and 99 Underground Storage Tanks—Promulgation of rules—Violation.*

(2) *South Dakota Codified Laws (2011), Title 34A Environmental Protection, Chapter 6 Solid Waste Management: selected sections.*

(3) *South Dakota Codified Laws (2021), Title 34A Environmental Protection, Chapter 10 Remedies for Protection of Environment: Sections 1 through 17.*

(4) *South Dakota Codified Laws (2021), Title 34A Environmental Protection, Chapter 12 Regulated Substance Discharges: Sections 1 through 16.*

(5) *South Dakota Codified Laws (2021), Title 34A Environmental Protection, Chapter 13 Petroleum Inspection and Release Compensation: Sections 1, 4, 5, and 20.*

(6) *South Dakota Codified Laws (2021), Title 34A Environmental Protection, Chapter 17 Uniform Environmental Covenants Act: Sections 1 through 14.*

(7) *South Dakota Codified Laws (2009), Title 34A Environmental Protection, Chapter 93 Implementation of and Compliance with Certain Federal Energy Acts: Sections 1 through 8.*

(8) *South Dakota Codified Laws (2021), Title 1 State Affairs and Government, Chapter 50 State Emergency Response Commission: Sections 1 through 11.*

(9) *South Dakota Codified Laws (1969), Title 15 Civil Procedure, Chapter 6 Rules of Procedure in Circuit Courts: Section 24(a) Intervention of Right.*

(B) The regulatory provisions include:

(1) *Administrative Rules of South Dakota (April 19, 2021), Title 74 Department of Agriculture and Natural Resources, Article 74:56 Storage facilities—remediation: Chapter 74:56:01 Underground Storage Tanks, Section 74:56:01:56 Failure to comply.*

(2) [Reserved]

(iii) *Provisions not incorporated by reference*. None of the identified statutes and rules applicable to the South Dakota underground storage tank program are broader in coverage than the Federal program; therefore, all provisions are incorporated by reference.

(2) *Statement of legal authority*. The Attorney General's Certification, signed by the Attorney General for the State of South Dakota on September 2, 2022, 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 final program application on October 24, 2023, 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 final program revision application on October 24, 2023, 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 8 and the South Dakota Department of Agriculture and Natural Resources, signed by the EPA Regional Administrator on October 15, 2023, 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.*

§ 282.92 Tennessee State-Administered Program.

(a) *History of the approval of Tennessee's program.* The State of Tennessee (Tennessee or State) is approved to administer and enforce a petroleum underground storage tank (UST) 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 Petroleum Underground Storage Tank Program (Petroleum UST Program), as administered by the Tennessee Department of Environment and Conservation (TDEC), was approved by the EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA approved the Tennessee Petroleum UST Program on November 17, 1998, and it was effective on January 15, 1999. A subsequent program revision was approved by the EPA and became effective November 8, 2021.

(b) *Enforcement authority.* Tennessee has primary responsibility for administering and enforcing its federally approved Petroleum UST Program. However, the EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions. The EPA also retains all authority to operate the hazardous substance underground storage tank program.

(c) *Retention of program approval.* To retain program approval, Tennessee must revise its approved Petroleum UST 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 Tennessee obtains approval for 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) *Final approval.* Tennessee has final approval for the following elements of its Petroleum UST Program submitted to the EPA and approved effective January 15, 1999, and the pro-

gram revisions approved by the EPA effective on November 8, 2021.

(1) *State statutes and regulations—(i) Incorporation by reference.* The Tennessee materials cited in this paragraph (d)(1)(i) and listed in appendix A to this part, are incorporated by reference as part of the Petroleum UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may access copies of the Tennessee statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, William R. Snodgrass Tennessee Tower, 12th Floor, 312 Rosa L. Parks Ave., Nashville, TN 37243; Phone number: (615) 532-0730; website: <https://www.tn.gov/environment/program-areas/ust-underground-storage-tanks/ust/act-rules-and-policies.html>. You may inspect all approved material at the EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562-9900; or the National Archives and Records Administration (NARA), email: fedreg.legal@nara.gov; website: <https://www.archives.gov/federal-register/cfr/abr-locations.html>.

(A) “Tennessee Statutory Requirements Applicable to the Petroleum Underground Storage Tank Program,” dated May 11, 2021.

(B) “Tennessee Regulatory Requirements Applicable to the Petroleum Underground Storage Tank Program,” dated May 11, 2021.

(ii) *Legal basis.* The EPA considered the following statutes and regulations which provide the legal basis for the State's implementation of the Petroleum UST Program, but these provisions do not replace Federal authorities. Further, these provisions are not being incorporated by reference, unless the provisions place requirements on regulated entities.

(A) *Tennessee Petroleum Underground Storage Tank Act (the UST Act) of 1988, Tenn. Code Ann. sections 68–215–101 to 68–215–204 (2018).* (1) Section 68–215–106(c), (e), and (f), insofar as these provisions provide for delivery prohibition

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and enforcement of the Petroleum UST Program.

(2) Section 68-215-106(d), insofar as it provides for criminal prosecution under the UST Act.

(3) Section 68-215-107(a), insofar as it establishes authority over the placement and storage of petroleum substances in underground storage tanks, release prevention, release detection, release correction, closure, and post-closure care of petroleum underground storage tanks in Tennessee.

(4) Section 68-215-107(b), insofar as it provides for the issuance of orders to enforce the Petroleum UST Program.

(5) Section 68-215-107(c) and (d), insofar as these provisions identify specific authorities for release response and corrective actions, including in response to an imminent and substantial danger.

(6) Section 68-215-107(e), insofar as it identifies specific authorities for compliance monitoring and enforcement.

(7) Section 68-215-107(f), insofar as it provides for the promulgation of regulations for the implementation of the Petroleum UST Program.

(8) Section 68-215-107(g)(1), insofar as it provides evaluation considerations for the State's approval of a cleanup plan.

(9) Section 68-215-108, insofar as it provides for the protection of "proprietary" information and sharing of information in the files obtained or used in the administration of the Petroleum UST Program with the EPA.

(10) Section 68-215-114, insofar as it provides for the issuance and enforcement of correction orders; and establishes liability costs for responsible parties.

(11) Section 68-215-116, insofar as it provides for an assessment of penalties under the UST Act.

(12) Section 68-215-117, insofar as it provides for immunity from liability under the UST Act in certain circumstances.

(13) Section 68-215-118, insofar as it identifies authorities for enforcement response, specifically authority over governmental entities, under the UST Act.

(14) Section 68-215-119, insofar as it identifies authorities for enforcement response and provides for review of or-

ders and appeal of any determination by the Tennessee Department of Environment and Conservation (TDEC) under the UST Act.

(15) Section 68-215-120, insofar as it provides for criminal prosecution under the UST Act.

(16) Section 68-215-121, insofar as it identifies authorities for enforcement response and public participation, provides for assessment of civil penalties and damages, and establishes third-party intervention under the UST Act.

(17) Section 68-215-122, insofar as it identifies authorities for enforcement response and provides for injunctions as a legal remedy under the UST Act.

(18) Section 68-215-123, insofar as it identifies specific authorities for compliance monitoring and public participation and provides for any person to submit a complaint against any person for violating the UST Act.

(19) Section 68-215-126, insofar as it establishes authority in relation to local laws or regulations.

(20) Section 68-215-127, insofar as it establishes authority over releases of petroleum from underground storage tanks and creates the soil and groundwater classification and cleanup criteria.

(B) *Tennessee's Underground Storage Tank Regulations, Tenn. Comp. R. & Regs. 0400-18-01-.01 to .17 (2018)*. (1) 0400-18-01-.01(5)(e), insofar as it provides for the State's sharing of information with the EPA.

(2) 0400-18-01-.03(2), insofar as it identifies specific authorities for compliance monitoring and provides for reporting and maintenance of records.

(3) 0400-18-01-.06(11), insofar as it provides for public participation in the corrective action process.

(4) 0400-18-01-.08(20) and (21), insofar as these provisions provide procedures governing the forfeiture of financial assurance and release of financial assurance mechanism documents.

(5) 0400-18-01-.09(17), insofar as it provides for assessment of civil penalties for failure to comply with orders issued under the UST Act.

(6) 0400-18-01-.11, insofar as it provides for appeal of any determination by TDEC under the provisions of Tennessee's Underground Storage Tank Regulations, procedures for contested

cases, and the State Administrative Procedures Act.

(7) 0400–18–01–.15, insofar as it identifies specific authorities for enforcement response and delivery prohibition requirements.

(C) *Tennessee’s Uniform Administrative Procedures Act, Part 3—Contested Cases, Tenn. Code Ann. sections 4–5–301 to 4–5–325 (2018)*. (1) Section 4–5–308(a) through (c), insofar as these provisions identify authorities for public participation and provide for the filing of pleadings, briefs, motions, and other documents.

(2) Section 4–5–310, insofar as it identifies authorities for public participation and provides for intervention in contested case proceedings.

(3) Section 4–5–313, insofar as it identifies authorities for enforcement response and provides procedures for contested cases.

(iii) *Other provisions not incorporated by reference*. The following statutory and regulatory provisions applicable to the Tennessee Petroleum UST Program are broader in scope than the Federal program or external to the State UST program approval requirements. Therefore, these provisions are not part of the approved Petroleum UST Program and are not incorporated by reference in this section:

(A) *Tennessee Petroleum Underground Storage Tank Act (the UST Act) of 1988, Tenn. Code Ann. sections 68–215–101 to 68–215–204 (2018)*. (1) Section 68–215–102 is external insofar as it contains the State’s public policy for regulating underground storage tanks.

(2) Section 68–215–103(17)(A)(iii) and (iv), as to the definition of “Responsible party,” insofar as these provisions include entities other than owners and operators, as these terms are defined in 40 CFR 280.12.

(3) Section 68–215–104(3), insofar as it refers to the payment of fees associated with the Petroleum UST Program.

(4) Section 68–215–104(4), insofar as it refers to reimbursement from Tennessee’s Petroleum Underground Storage Tank Fund (State Fund).

(5) Section 68–215–106(a)(6), insofar as it places notification requirements on persons other than owners and operators, as these terms are defined in 40 CFR 280.12.

(6) Section 68–215–106(b)(1) and (2) are external insofar as these provisions contain obligations on the State agency, not a regulated entity.

(7) Section 68–215–109, insofar as it establishes annual tank fees and provides for promulgation of regulations regarding these fees.

(8) Section 68–215–110(b) through (h), insofar as these provisions provide for the creation of the State Fund and environmental assurance fee.

(9) Section 68–215–111, insofar as it provides criteria for the qualified expenditure of funds, requirements for fund eligibility, and promulgation of regulations regarding the State Fund.

(10) Section 68–215–115, insofar as it provides the procedures for the State to recover its costs for investigation, identification, containment, or cleanup of a particular site.

(11) Section 68–215–125, insofar as it prohibits the State Fund from being considered an insurance company or a member of the Tennessee Insurance Guaranty Association.

(12) Section 68–215–129, insofar as it provides criteria for cleanup contracts and reimbursement from the State Fund.

(B) *Tennessee’s Underground Storage Tank Regulations, Tenn. Comp. R. & Regs. 0400–18–01–.01 to .17 (2018)*. (1) 0400–18–01–.01(4)1.(iii) and (iv), as to the definition for “Responsible party,” insofar as these provisions include entities other than owners and operators, as these terms are defined in 40 CFR 280.12.

(2) 0400–18–01–.01(5)(a) through (d) are external insofar as these provisions contain obligations on the State agency with respect to proprietary information, not a regulated entity.

(3) 0400–18–01–.02(1)(a)2., insofar as it requires owners to submit annual tank fees as part of the notification requirement.

(4) 0400–18–01–.02(4)(c)6.(ii)(II)IV., insofar as it refers to tank fees and late penalties.

(5) 0400–18–01–.04(1)(e), insofar as it requires inspection of dispensers.

(6) 0400–18–01–.05(1)(b) and (c), insofar as these provisions contain requirements for coverage and reimbursement from the State Fund.

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(7) 0400-18-01-.06(2)(b)1., as to the text “The fund shall not reimburse the owner, operator, and/or other responsible party of [the] petroleum UST system for the cost of generating duplicate data,” insofar as this text pertains to the State Fund.

(8) 0400-18-01-.06(3)(f), insofar as it provides eligibility requirements for the State Fund.

(9) 0400-18-01-.06(7)(c), insofar as it provides for reimbursement from the State Fund.

(10) Appendix 0400-18-01-.07-A, as to the text “transport and” in (4)(a) and (4)(e), insofar as these provisions pertain to the transportation of a tank.

(11) 0400-18-01-.08(5)(a) and (b), insofar as these provisions establish eligibility requirements for the State Fund.

(12) 0400-18-01-.09(1) through (16), insofar as these provisions regulate disbursements, coverage, and fund eligibility regarding the State Fund and provide for approval of corrective action contractors and recovery of State costs.

(13) 0400-18-01-.09(18) is external insofar as it pertains to the severability of the rule.

(14) 0400-18-01-.10, insofar as it establishes a system and schedule for the collection of fees under the UST Act.

(15) 0400-18-01-.12(3), insofar as it establishes eligibility requirements for the State Fund.

(16) 0400-18-01-.12(4), insofar as it pertains to the payment of annual tank fees.

(17) 0400-18-01-.14 is external insofar as it contains record retention obligations on the State agency, not a regulated entity.

(2) *Statement of legal authority.* The Attorney General’s Statement, signed on October 3, 2018, 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 Adequate Enforcement Procedures” submitted on October 15, 2018, 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 on October 15, 2018, 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 TDEC, signed by the EPA Regional Administrator on October 12, 2018, 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.*

[86 FR 50475, Sept. 9, 2021]

§ 282.93 Texas State-Administered Program.

(a) *History of the approval of Texas’s program.* The State of Texas 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 Texas Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the Texas underground storage tank base program effective on April 17, 1995. A subsequent program revision application was approved effective on August 21, 2020.

(b) *Enforcement authority.* Texas has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under sections 9003(h), 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retaining program approval.* To retain program approval, Texas 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 Texas 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) *Final program approval.* Texas has final approval for the following elements of its program application originally submitted to EPA and approved effective April 17, 1995, and the program revision application approved by EPA effective on August 21, 2020:

(1) *State statutes and regulations—(i) Incorporation by reference.* 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.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of Texas UST regulations that are incorporated by reference in this paragraph from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1-888-728-7677; website: <http://legalsolutions.thomsonreuters.com> or the Texas Secretary of State office website at [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334). You may inspect all approved material at the EPA Region 6, 1201 Elm Street, Suite #500, Dallas, Texas 75270 (phone number (214) 665-2239) or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “EPA-Approved Texas Regulatory Requirements Applicable to the Underground Storage Tank Program, October 2019”. Those provisions are listed in Appendix A to Part 282.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State’s implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) Texas Water Code, as amended, effective October 2018. Title 2, Water Ad-

ministration, Subtitle A, Executive Agencies:

(i) Chapter 5. Texas Commission on Environmental Quality, Subchapter B. Organization of the Texas Natural Resource Conservation Commission, Section 5.012, Subchapter D. General Powers and Duties of the Commission, Sections 5.103, and 5.105; Subchapter E. Administrative Provision for Commission, Sections 5.173, 5.176, 5.1765, and 5.177; Subchapter L. Emergency and Temporary Orders, Sections 5.510, 5.511, 5.515, and 5.516;

(ii) Chapter 7. Enforcement, Subchapter A. General Provisions, Sections 7.002 and 7.006; Subchapter B. Corrective Action and Injunctive Relief, Section 7.032; Subchapter C. Administrative Penalties, Sections 7.053 and 7.075; Subchapter D. Civil Penalties, Sections 7.101, 7.102, 7.103, 7.105, 7.106, 7.107, 7.108, and 7.110; Subchapter E. Criminal Offenses and Penalties, Sections 7.149 and 7.156.

(2) Texas Water Code, as amended, effective October 2018. Title 2, Water Administration, Subtitle D, Water Quality Control: Chapter 26. Water Quality Control, Subchapter B, General Powers and Duties, Sections 26.011, 26.013, 26.014, 26.015, 26.0151, 26.017, 26.019, 26.020, 26.021, 26.022, 26.039, and 26.042; Subchapter D. Prohibition Against Pollution; Enforcement, Sections 26.341 (except 26.341(b)(1)), 26.342 (except 26.342(2), (4), (5), (16), (16-a), (18), and references to aboveground storage tanks at (9), (12), (14), (15), 26.343 (except 26.343(a)(1)), 26.344 (except reference to aboveground storage tanks), 26.3441, 26.345 (except reference to aboveground storage tanks), 26.346 (except reference to aboveground storage tanks), 26.3465, 26.3467, 26.347, 26.348, 26.349 (except reference to aboveground storage tanks), 26.350, 26.351 and 26.3511 (except references to aboveground storage tanks), 25.3512 (except reference to petroleum storage tank remediation account), 26.3513, 26.3514 through 26.3516 (except references to aboveground storage tanks), 26.352, 26.354 through 26.356 (except references to aboveground storage tanks), 26.357, 26.3572, 26.35735, 26.359, 26.362 and 26.363.

(B) The regulatory provisions include:

(1) Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks, effective May 31, 2018, Section 334.14 Memorandum of Understanding between the Attorney General of Texas and the Texas Natural Resource Conservation Commission, 334.82 Public Participation, and 334.83 Enforcement.

(2) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Texas underground storage tank program that are broader in coverage than the Federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes:

(A) Texas Water Code, as amended, effective October 2018, Title 2, Water Administration, Subtitle D, Water Quality Control: Chapter 26 Water Quality Control, Sections 26.341(b)(1), 26.342(2), 26.342(4), 26.342(9) as it applies to aboveground storage tanks, 26.342(12) as it applies to aboveground storage tanks, 26.342(14) and 26.342(15) as they apply to aboveground storage tanks, 26.342(16), 26.342(16-a), 26.342(18), 26.343(a)(1), 26.344 as it applies to aboveground storage tanks, 26.3441, 26.345 and 26.346 as they apply to aboveground storage tanks, 26.349 as it applies to aboveground storage tanks, 26.351 and 26.3511 as they apply to aboveground storage tanks, 26.3512 as it applies to petroleum storage tank remediation account, 26.3514 through 26.3516 as they apply to aboveground storage tanks, 26.354 through 26.356 as they apply to aboveground storage tanks, 26.3571, 26.3573, 26.35731, 26.3574, 26.35745, 26.358, 26.361, 26.364 through 26.367; Subchapter K. Occupational Licensing and Registration, Sections 26.451, 26.452 and 26.456.

(B) Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks, effective May 31, 2018: Sections 334.2 “Definitions” as applied to aboveground storage tanks (ASTs), 334.9 “Seller’s Disclosure”, 334.19 “Fee on Delivery of Petroleum Product, 334.21 “Fee Assessment” through 334.23 “Disposition of Fees, Interest, and Pen-

alties”, 334.121 “Purpose and Applicability for Aboveground Storage Tanks (ASTs)” through 334.132 “Other General Provisions for Aboveground Storage Tanks (ASTs)”, 334.201 “Purpose, Applicability, and Deadlines” through 334.208 “Model Institutional Controls”, 334.301 “Applicability of this Subchapter” through 334.322 “Subchapter H Definitions”, 334.401 “License and Registration Required”, 334.407 “Other Requirements for an Underground Storage Tank Contractor”, 334.424 “Other Requirements for an On-site Supervisor” and 334.560 “Reimbursable Cost Specifications”.

(2) *Statement of legal authority.* The Attorney General’s Statements, signed by the Attorney General of Texas on January 11, 1994 and October 22, 2018, 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 on April 28, 1994 and as part of the program revision application for approval on October 15, 2018 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 April 28, 1994 and as part of the program revision application on October 15, 2018, 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 Texas Department of Environmental Quality, signed by the EPA Regional Administrator on July 29, 2019, 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.*

[85 FR 37352, June 22, 2020]

§ 282.94 Utah State-Administered Program.

(a) *History of the approval of Utah's Program.* The State of Utah 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 Utah Department of Environmental Quality (DEQ), Division of Environmental Response and Remediation (DERR), was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the Utah underground storage tank base program effective on April 7, 1995. A subsequent program revision application was approved by EPA and became effective on January 4, 2019.

(b) *Enforcement authority.* Utah has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Utah 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 Utah 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) Utah has final approval for the following elements of its program application originally submitted to EPA and approved effective April 7, 1995, and the program revision application approved by EPA effective on January 4, 2019:

(1) *State statutes and regulations—(i) Incorporation by reference.* The Utah provisions cited in this paragraph, and

listed in Appendix A to part 282, are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Utah regulations that are incorporated by reference in this paragraph from Utah's Office of Administrative Rules, Office Coordinator, P.O. Box 141007, Salt Lake City, UT 84114-1007; Phone number: 801-538-3003; website: <https://rules.utah.gov/publications/utah-adm-code/>. You may inspect all approved material at the EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202 (Phone number (303) 312-6284 or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, call 202-741-6030 or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) Utah Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, October 2018.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include: Utah Code (May 8, 2018), Title 19, "Environmental Quality Code," Chapter 6, "Hazardous Substances," Part 4 "Underground Storage Tank Act": Sections 19-6-402 (14); 19-6-404(2)(f), (j), and (m); 19-6-407(2); 19-6-414; 19-6-416; 19-6-418; 19-6-420(2), (4)(a), (5)(b), (8), and (9)(b); 19-6-424.5; 19-6-425; 19-6-426(5) and (6); 19-6-427, and 19-5-429(1).

(B) The regulatory provisions include:

(1) *Utah Administrative Code (January 1, 2017), Title 311: "Environmental Quality, Environmental Response and Remediation":* Sections R311-206-7(a) and (f); R311-208-1 through R311-208-5.

(2) *Utah Administrative Code (January 1, 2017), Title 305: "Environmental Quality, Administrative Procedures":* Sections R305-7-101 through R305-7-113; R305-7-200 through R305-7-217; R305-7-

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301 through R305-7-320; R305-7-401 through R305-7-403; R305-7-501 through R305-7-503; and R305-7-601 through R305-7-623.

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Utah underground storage tank program that are broader in coverage than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes:

(A) *Utah Code (May 8, 2018), Title 19: “Environmental Quality Code,” Chapter 6, “Hazardous Substances,” Part 4 “Underground Storage Tank Act”:* Sections 19-6-412(6); and 19-6-411(7).

(B) *Utah Administrative Code (January 1, 2017), Title 311: “Environmental Quality, Environmental Response and Remediation”:* Sections R311-201-2; R311-201-4; R311-201-5 through 10; R311-203-3(b), (c) and (g); R311-203-4; R311-206-2(a)(1), (b) and (c); and R311-206-8(a)(1)–(4) and (f)(1)(A).

(2) *Statement of legal authority.* The Attorney General’s Statements, signed by the Assistant Attorney General and Director of the Environment and Health Division of the Utah Attorney General’s Office of the State of Utah on October 2, 2017, 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 on February 28, 2018, 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 February 28, 2018, 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 8 and the Utah Depart-

ment of Environmental Quality, signed by the EPA Acting Regional Administrator on July 27, 2017, 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.*

[83 FR 55290, Nov. 5, 2018]

§ 282.95 Vermont State-Administered Program.

(a) The State of Vermont 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 Vermont Department of Environmental Conservation (VT DEC), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Vermont program on January 3, 1992, which was effective on February 3, 1992.

(b) Vermont 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, Vermont 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 Vermont 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) Vermont has final approval for the following elements of its program application originally submitted to EPA and approved effective February 3, 1992, 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 Vermont regulations and statutes that are incorporated by reference in this paragraph from Ted Unkles, UST Program Manager, Vermont Department of Environment Conservation, 1 National Life Drive; Davis 1 Montpelier VT 05620-3704; Phone number: 802-522-0488; ted.unkles@vermont.gov; Hours: Monday to Friday, 8:00 a.m. to 4:30 p.m.; link to statutes and regulations: <https://legislature.vermont.gov/statutes/chapter/10/059>; <https://legislature.vermont.gov/statutes/chapter/10/159>; <https://dec.vermont.gov/sites/dec/files/wmp/UST/UST-Rules.pdf>; https://dec.vermont.gov/sites/dec/files/wmp/Sites/0706.IRULE_.pdf.

(A) EPA-Approved Vermont Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, October 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) *Title 10 Vermont Statutes Annotated, Chapter 201, Administrative Environmental Law Enforcement*; Sections 8001, 8002, 8003(a)(8) and (a)(12), 8004 through 8008, 8009 through 8016, 8019 through 8021.

(2) *Title 10 Vermont Statutes Annotated, Chapter 59, Underground and Aboveground Liquid Storage Tanks*, Sections 1931 through 1935.

(3) *Title 10 Vermont Statutes Annotated, Chapter 159, Waste Management*, Sections 6609, 6610a, and 6612, 6615c, 6615d.

(B) The regulatory provisions include:

(1) *Code of Vermont Regulations, Chapter 20, Environmental Administrative Penalty Rules.*

(2) *Code of Vermont Regulations, Chapter 25, Environmental Citations.*

(3) *Code of Vermont Rules, 12-032-004, Chapter 8—Vermont Underground Storage Tank Rules*, Section 8-502(d).

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

(A) *Title 10 Vermont Statutes Annotated, Chapter 59, Underground and Aboveground Liquid Storage Tanks*, Subchapter 1: Underground Storage Tank Regulation. Section 1925, Notice in land records; Section 1927. Regulation of category one tanks, 1927(a), 1927(d); Section 1929. Regulation of large heating oil tanks; Section 1929a. Standards for aboveground storage tanks; Section 1929b. Regulation of heating oil tanks at public buildings; Section 1930. Implementation; coordination, Section 1930(b) and (c); Section 1936. Licensure of tank inspectors; Subchapter 2: Underground Storage Tank Assistance Program. Sections 1938 through 1944; *Title 10 Vermont Statutes Annotated, Chapter 159, Waste Management*, Subchapter 1: General Provisions, except Sections 6601, 6602(16)(A)(i), (ii) and (iv), 6615, 6615a, 6615b, 6616, and 6617.

(B) *Code of Vermont Rules, 12-032-004, Chapter 8—Vermont Underground Storage Tank Rules*, Subchapter 1: General Provisions, Section 8-102. Purpose and Applicability, as it applies to “install, remove, repair, or test;” Section 8-103. Release Prohibition, Reporting, Emergency Response, the wording in 8-103(b), “owner of the land on which the underground storage tank system is located, transporter of fuel, etc.” as it applies to any person being responsible for immediately reporting a release, and 8-103(g); Section 8-106. Fees; Section 8-107. Severability; Section 8-108. Variances; Section 8-109. Transfer of Ownership, Operation; Permits, Notification of Rules, Section 8-109(a); Subchapter 3: Registration (Notification), Permits, and Operator Training, Section 8-301. Applicability, 8-301(a)(1)(A), (a)(1)(B), (a)(2)(B), 8-301(b)(2), 8-301(c); Section 8-302. Registration, 8-302(a)(1)(C) and 8-302(c); Section 8-303. Permits for Category One Underground

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Storage Tank Systems, except 8-303(f); Section 8-304. Recording Underground Storage Tank Systems in Municipal Land Records; Subchapter 4: Design, Manufacturing, And Installation Standards for Underground Storage Tank Systems, Section 8-402. Prohibitions, 8-402(a) and (b); Section 8-405. Piping Standards, 8-405(b), (d)(2), and (e); Section 8-406. Spill Containment & Overfill Prevention Measures and Equipment, 8-406(c) and (d); Section 8-407. Scheduling Installations of Underground Storage Tank Systems, 8-407(a)(1); Subchapter 5: Operating Standards for Underground Storage Tanks, Section 8-503. Spill and Overfill Prevention; Monitoring of Deliveries, 8-503(a) and (b); Section 8-506. Release Detection Requirements for Tanks, 8-506(c)(1)(F); Section 8-508. Underground Storage Tank System Repairs, 8-508(c)(9)(B), (C) and (D); 8-508(g); Section 8-511. Testing of Sumps, Spill Containment, and Overfill Prevention Devices, 8-511(c); Subchapter 6: Out-Of-Service, Continued Use, And Closure Standards for Underground Storage Tank Systems, Section 8-601. Applicability, 8-601(c) and (d); Section 8-604. Closure of Underground Storage Tank Systems, the words “or three” in 8-604(g) as it applies to category three systems, 8-604(h)(3), and 8-604(i), with respect to the Secretary’s issuance of an amended permit; *Code of Vermont Rules 12-032-008. Chapter 35—Investigation and Remediation of Contaminated Properties Rule*, Subchapter 1: General Provisions, Section 35-103. Severability; Section 35-107. Historical Fill Exemption; Subchapter 5: Response Actions; Releases of Heating Fuels; Subchapter 8: Contaminated Soil, Section 35-805. Development Soils; Subchapter 11. Requests for Reimbursement for Municipal Water Line Extensions from the Petroleum Cleanup or Environmental Contingency Funds; and other provisions of Chapter 35, insofar as they do not relate to underground storage tanks and with respect to underground storage tanks insofar as they are broader in scope than the federal requirements.

(2) *Statement of legal authority.* The Attorney General’s Statements, signed by the Attorney General of Vermont on April 11, 1991, and October 30, 2020,

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 May 1991, and as part of the program revision application for approval on December 22, 2020, 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 May 1991, and as part of the program revision application on December 22, 2020, 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 Vermont Department of Environmental Conservation, signed by the EPA Regional Administrator on October 10, 2018, 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.*

[87 FR 42081, July 14, 2022]

§ 282.96 Virginia State-Administered Program.

(a) The Commonwealth of Virginia 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 Virginia Department Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this chapter. EPA approved the Virginia underground storage tank program on September 28, 1998, and approval was effective on October 28, 1998. A subsequent program revision application was approved by EPA and became effective on May 3, 2021.

(b) Virginia 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, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Virginia 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 Virginia 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) Virginia has final approval for the following elements of its program application originally submitted to EPA and approved on September 28, 1998 and effective October 28, 1998, and the program revision application approved by EPA, effective on May 3, 2021.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The provisions cited in this paragraph, and listed in Appendix A to Part 282, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Virginia regulations and statutes that are incorporated by reference in this paragraph from the Office of Spill Response and Remediation, Virginia DEQ, 1111 East Main Street, Suite 1400, Richmond, VA 23219; Phone number: 804-698-4010; tank@deq.virginia.gov. You may inspect all approved material at the EPA Region 3 office, 1650 Arch Street, Phila-

delphia, PA 19103-2029 (Phone number 215-814-2953) or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) Virginia Statutory Requirements Applicable to the Underground Storage Tank Program, April 2004.

(B) Virginia Regulatory Requirements Applicable to the Underground Storage Tank Program, June 2018.

(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) Code of Virginia, Title 2.2, Subtitle I, Chapter 5: Department of Law, Article 1: General Provisions, Section 2.2-507.

(2) Code of Virginia, Title 2.2, Subtitle II, Chapter 40: Administrative Process Act, Sections 2.2-4000 to -4031, insofar as the provisions and procedures serve to implement the underground storage tank program.

(3) Code of Virginia, Title 2.2, Subtitle II, Chapter 48: Virginia Debt Collection Act, Sections 2.2-4800 to -4809, insofar as the provisions and procedures serve to implement the underground storage tank program.

(4) Code of Virginia, Title 10.1, Subtitle II, Chapter 11.1: Department of Environmental Quality, Article 1: General Provisions, Sections 10.1-1182, -1186, -1186.3, -1186.4.

(5) Code of Virginia, Title 36, Chapter 6: Uniform Statewide Building Code, Sections 36-97 to -119.1, especially sections 36-97, -98.1, -99.6.

(6) Code of Virginia, Title 42.1, Chapter 7: Virginia Public Records Act, Sections 42.1-76 to -90.1, insofar as the provisions and procedures serve to implement the underground storage tank program.

(7) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 2: Control Board Generally, Sections 62.1-44.13, .15; Article 5: Enforcement and Appeal Procedure, Sections

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62.1–44.20, .21, .23; Article 6: Offenses and Penalties, Sections 62.1–44.31, .32.

(B) The regulatory provisions include:

(1) Virginia Administrative Code, Title 9, Agency 25: State Water Control Board, Chapter 580: Underground Storage Tanks: Technical Standards and Corrective Action Requirements, Part I Definitions, Applicability, and Installation Requirements for Partially Excluded Systems, 9VAC25–580–10 Definitions for “Delivery prohibition” and “Delivery prohibition tag;” Part IX Delivery Prohibition, 9VAC25–580–370 Requirements for delivery prohibition.

(2) 2015 Virginia Uniform Statewide Building Code, Part I, Virginia Construction Code, Sections 101.2, 102.3.10, 103, 108.1, 414.6.2, Chapter 2.

(iii) *Provisions not incorporated by reference.* The following statutory and regulatory provisions are “broader in scope” than the federal program, and are not incorporated by reference herein. These provisions are not federally enforceable:

(A) The statutory provisions include:

(1) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 9: Storage Tanks Section 62.1–44.34:8 Definitions, “Regulated substance” insofar as the term includes substances not regulated under the federal program.

(2) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law, Article 10: Petroleum Storage Tank Fund.

Section 62.1–44.34:10 Definitions, “Regulated substance” insofar as the term includes substances not regulated under the federal program

Section 62.1–44.34:13 Levy of fee for Fund maintenance

(B) The regulatory provisions include Virginia Administrative Code, Title 9, Agency 25: State Water Control Board, Chapter 580: Underground Storage Tanks: Technical Standards and Corrective Action Requirements.

(1) Section 9VAC25–580–10 Definitions, “Regulated substance” insofar as the term includes substances not regulated under the federal program

(2) Section 9VAC25–580–40 Permitting and inspection requirements for all

UST systems, USBC permitting and inspection requirements

(3) Section 9VAC25–580–50 Performance standards for new UST systems, subdivision 4.b. USBC permitting and inspection requirements, subdivision 5. USBC permitting requirement to demonstrate compliance with subdivision 4. of 9VAC25–580–50

(4) Section 9VAC25–580–60 Upgrading of existing UST systems, USBC permitting and inspection requirements

(5) Section 9VAC25–580–110 Repairs allowed, USBC permitting and inspection requirements

(6) Section 9VAC25–580–160 Methods of release detection for tanks, USBC permitting and inspection requirements

(7) Section 9VAC25–580–170 Methods of release detection for piping, USBC permitting and inspection requirements

(8) Section 9VAC25–580–310 Temporary closure, USBC permitting and inspection requirements

(9) Section 9VAC25–580–320 Permanent closure and changes-in-service, USBC permitting and inspection requirements

(10) Section 9VAC25–580–380 General Requirements, USBC permitting and inspection requirements

(11) Section 9VAC25–580–390 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems, USBC permitting and inspection requirements

(2) *Statement of legal authority.* “Attorney General’s Statement,” signed by the Assistant Attorney General, via authority delegated by the Attorney General, on November 20, 2018, 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 “Virginia UST Program Demonstration of Adequate Enforcement Procedures” submitted as part of the program revision application for approval on February 11, 2019, though not incorporated by reference, is referenced as part of the approved

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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 program revision application on February 11, 2019, 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 3 and the Virginia Department of Environmental Quality, signed by the EPA Regional Administrator on November 26, 2018, 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.*

[86 FR 12114, Mar. 2, 2021]

§ 282.97 Washington State-Administered Program.

(a) *History of the approval of Washington's program.* The State of Washington 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 Washington Department of Ecology (Ecology), was approved by the EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the Washington underground storage tank base program effective on October 8, 1993. A subsequent program revision application was approved by the EPA and became effective on December 20, 2021.

(b) *Enforcement authority.* Washington has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, the EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Washington 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 Washington 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) *Final approval.* Washington has final approval for the following elements of its program application originally submitted to the EPA and approved effective October 8, 1993, and the program revision application approved by the EPA effective on December 20, 2021:

(1) *State statutes and regulations—(i) Incorporation by reference.* The materials cited in this paragraph (d)(1) are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the EPA must publish a document in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, Washington 98101, phone number (206) 553-6693. Copies of Washington's program application may be obtained from the Underground Storage Tank Program, Washington Department of Ecology, P.O. Box 4765, Olympia, Washington 98504. All approved material is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fr.inspection@nara.gov or go to www.archives.gov/federal-register/cfr/ibr-locations.html.

(A) “Washington Statutory Requirements Applicable to the Underground Storage Tank Program,” June 2021.

(B) “Washington Regulatory Requirements Applicable to the Underground Storage Tank Program,” June 2021.

(ii) *Legal basis.* The EPA evaluated the statutes and regulations listed in appendix B to this part that provide the legal basis for the State's implementation of the underground storage tank program but are not incorporated by reference and do not replace Federal authorities.

(iii) *Broader in scope.* The specifically identified sections and rules applicable to the Washington underground storage tank program listed in appendix C to this part 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.

(2) *Statement of legal authority.* The Attorney General Statement, signed on October 10, 2018, 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 application for approval on June 30, 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 on June 30, 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 10 and the Washington Department of Ecology, signed by the EPA Regional Administrator on March 19, 2019, 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.*

[86 FR 57761, Oct. 19, 2021]

§ 282.98 West Virginia State-Administered Program.

(a) The State of West Virginia 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 West Virginia Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this chapter. EPA approved the West Virginia underground storage tank program on September 23, 1997, and approval was effective on February 10, 1998. A subsequent program revision application was approved by EPA and became effective on November 10, 2020.

(b) West Virginia 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, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, West Virginia 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 West Virginia 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) West Virginia has final approval for the following elements of its program application originally submitted to EPA and approved on September 23, 1997 and effective February 10, 1998, and the program revision application approved by EPA, effective on November 10, 2020.

(1) *State statutes and regulations.*—(i) *Incorporation by reference.* The provisions cited in this paragraph, and listed in Appendix A to Part 282, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I

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of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the West Virginia regulations and statutes that are incorporated by reference in this paragraph from Terry Fletcher, Acting Communications Director, West Virginia Department of Environmental Protection, 601 57th St. SE, Charleston, WV 25304; Phone number: 304-926-0499 ext 49720; email address, DEPPIOEmployees@wv.gov; Hours: Monday–Friday, 7:00 a.m. to 3:30 p.m. You may inspect all approved material at the EPA Region 3 Office, 1650 Arch Street, Philadelphia, PA 19103-2029 (Phone number: 215-814-2953); or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) West Virginia Statutory Requirements Applicable to the Underground Storage Tank Program, June 2011.

(B) West Virginia Regulatory Requirements Applicable to the Underground Storage Tank Program, June 2018.

(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) Code of West Virginia, Chapter 22, Article 17: Underground Storage Tank Act

Section 22-17-5 Powers and duties of director; integration with other acts
Section 22-17-6 Promulgation of rules and standards by director, § 22-17-6.(b)(13)

Section 22-17-12 Confidentiality, § 22-17-12.(b)

Section 22-17-13 Inspections, monitoring, and testing

Section 22-17-15 Administrative orders; injunctive relief; requests for reconsideration

Section 22-17-16 Civil penalties

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Section 22-17-17 Public participation
Section 22-17-18 Appeal to environmental quality board

Section 22-17-23 Duplicative enforcement prohibited

(2) Code of West Virginia, Chapter 22, Article 1: Department of Environmental Protection

Section 22-1-2 Definitions

(B) The regulatory provisions include:

(1) West Virginia Code of State Regulations, Title 33: Waste Management Rule, Series 30: Underground Storage Tanks

Section 33-30-5 Delivery Prohibition

(iii) *Provisions not incorporated by reference.* The following statutory and regulatory provisions are “broader in scope” than the federal program, and are not incorporated by reference. These provisions are not federally enforceable.

(A) The statutory provisions include:

(1) Code of West Virginia, Chapter 22, Article 17: Underground Storage Tank Act

Section 22-17-6 Promulgation of rules and standards by director, § 22-17-6.(b)(12) (except as to installation)

Section 22-17-7 Underground storage tank advisory committee; purpose

Section 22-17-19 Disclosures required in deeds and leases

Section 22-17-20 Appropriation of funds; underground storage tank administrative fund

Section 22-17-21 Leaking underground storage tank response fund

(2) [Reserved]

(B) The regulatory provisions include:

(1) West Virginia Code of State Regulations, Title 33: Waste Management Rule, Series 30: Underground Storage Tanks

Section 33-30-3 Certification Requirements for Individuals who Install, Repair, Retrofit, Upgrade, Perform Change-in-Service, Close or Tightness Test Underground Storage Tank Systems (except as to Individuals who Install)

Section 33-30-6 Operator Training Requirements

(2) West Virginia Code of State Regulations, Title 33: Office of Waste Management Rule, Series 31: Underground Storage Tank Fee Assessments

(2) *Statement of Legal Authority*. “Attorney General’s Statement”, signed by the Acting General Counsel, Chief of the Office of Legal Services, West Virginia Department of Environmental Protection, on June 8, 2017, 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 program revision application on June 24, 2018, 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 program revision application on June 24, 2018, 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.*

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region 3 and the West Virginia Department of Environmental Protection, signed by the EPA Regional Administrator on July 8, 2018, 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.*

[85 FR 56176, Sept. 11, 2020]

§§ 282.99–282.101 [Reserved]

§ 282.102 Puerto Rico State-Administered Program.

(a) The Commonwealth of Puerto Rico 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 Commonwealth’s program, as administered by the Commonwealth of Puerto Rico Environmental Quality

Board, is approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this chapter. EPA is publishing the notice of final determination on the approved Commonwealth of Puerto Rico underground storage tank program concurrently with this notice and it will be effective on March 31, 1998.

(b) The Commonwealth of Puerto Rico has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under sections 9003(h)(1), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h)(1), 6991d and 6991e, as well as its authority under other statutory and regulatory provisions.

(c) To retain program approval, the Commonwealth of Puerto Rico 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 the Commonwealth 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) The Commonwealth of Puerto Rico has final approval for the following elements submitted to EPA in its program application for final approval and to be published in the FEDERAL REGISTER concurrently with this notice, and to be effective on March 31, 1998. Copies may be obtained from the Underground Storage Tank Program, Puerto Rico Environmental Quality Board, 431 Ponce De Leon Avenue, Nacional Plaza, Suite 614, Hato Rey, PR 00917, Phone: (787) 767-8109.

(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) Puerto Rico Statutory Requirements Applicable to the Underground Storage Tank Program, 1997.

(B) Puerto Rico Regulatory Requirements Applicable to the Underground Storage Tank Program, 1997.

(ii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules are part of the approved Commonwealth program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) § 1121 *et seq.*

(i) Section 1131 Functions and duties [Insofar as paragraphs (10), (12), (13), (19), (22), (23), (25), (26), (29), and (30) set forth enforcement authorities.]

(ii) Section 1134 Hearings, orders and judicial proceedings

(iii) Section 1136 Penalty

(iv) Section 1139 Civil actions

(v) Section 1142 Powers [Insofar as (b)(5) sets forth enforcement authorities.]

(2) Puerto Rico Environmental Emergency Fund Act, 12 L.P.R.A. § 1269 *et seq.*

(B) The regulatory provisions include:

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(2) Part X—General Provisions.

(i) Rule 1005 Right of Entry

(ii) Rule 1007 Notice of Violation and Compliance Order

(iii) Rule 1008 Closure of an Underground Storage Tank

(iv) Rule 1010 Penalties

(C) Other provisions include:

(1) Puerto Rico Civil Procedure Rules of 1979, 32 L.P.R.A. Appendix III

(2) Rules of Administrative Procedure for Hearings in Environmental Quality Board, Regulation Number 3672, promulgated on October 19, 1988.

(iii) The following specifically identified sections and rules in the Commonwealth of Puerto Rico's statutes, regulations and rules 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) Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as

amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) §§ 1121 *et seq.*

(i) Section 1131—Functions and duties [Insofar as paragraph (13) addresses permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34) relates solely to the solid and hazardous waste programs.]

(ii) Section 1132—Transfer of powers

(iii) Section 1135—Character of Board for federal purposes [Insofar as it addresses permit requirements.]

(iv) Section 1138—Effectiveness of previous documents [Insofar as it addresses permit and licensing requirements.]

(B) The regulatory provisions include:

(1) Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

(i) Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances: Rule 603—Initial Abatement Measures and Site Check [Insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]; Rule 605—Free Product Removal [Insofar as 605(A) and 605(D)(6) require owners and operators to obtain permits or franchises for drilling and installation of water monitoring and/or extraction wells.].

(ii) Part XII—Fee Rules [Insofar as fees are broader in scope than the federal program.]: Rule 1201—Applicability; Rule 1202—Annual Notification Fees; Rule 1203—Fee Relative to Transfer of Ownership; Rule 1204—Fees for Duplication of Records; Rule 1205—Fee Payments; Rule 1206—Exemptions from Fees; Rule 1207—Fees for Revision of Permanent Closure Plans; Rule 1208—Fees for Annual Re-certification of UST Facilities.

(2) *Statement of legal authority.* The Attorney General Statement, a letter signed on July 2, 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.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the application for approval on January 17, 1996, 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 application on January 17, 1996 and supplemented on April 17, 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 2 and the Puerto Rico Environmental Quality Board, signed by an authorized representative of the Environmental Quality Board on March 7, 1997 and subsequently by an authorized representative of EPA, 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.*

[63 FR 4593, Jan. 30, 1998]

§§ 282.103–282.105 [Reserved]

APPENDIX A TO PART 282—STATE REQUIREMENTS INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

The following is an informational listing of the state requirements incorporated by reference in part 282 of the Code of Federal Regulations:

Alabama

(a) The statutory provisions include: *Alabama Underground Storage Tank and Wellhead Protection Act of 1988*, Ala. Code sections 22–36–1 to 22–36–10 (1988):

Section 22–36–1 Short title.

Section 22–36–2 Definitions.

Section 22–36–4 Information to be furnished by owner upon request of department; owner to permit access of records and entry and inspection of facilities, insofar as it imposes requirements on owners and operators of underground storage tank systems.

(b) The regulatory provisions include:

Alabama Underground Storage Tank Control Regulations, Ala. Admin. Code r. 335–6–15–.01 to 335–6–15–.49 (2017):

Rule 335–6–15–.02 Definitions.

Rule 335–6–15–.03 Applicability.

Rule 335–6–15–.04 Installation Requirements For Partially Excluded UST Systems.

Rule 335–6–15–.05 Notification Requirements.

Rule 335–6–15–.06 Performance Standards For New UST Systems, And Dispensers.

Rule 335–6–15–.07 Upgrading Of Existing UST Systems.

Rule 335–6–15–.08 Plans and Specifications.

Rule 335–6–15–.09 Operation, Maintenance, and Testing or Inspection of Spill and Overfill Prevention Equipment And Containment Systems; And Walkthrough Inspections.

Rule 335–6–15–.10 Operation and Maintenance of Corrosion Protection.

Rule 335–6–15–.11 Compatibility.

Rule 335–6–15–.12 Repairs Allowed.

Rule 335–6–15–.13 Reporting And Record-keeping, insofar as it imposes requirements on owners and operators.

Rule 335–6–15–.14 General Release Detection Requirements For All UST Systems.

Rule 335–6–15–.15 Release Detection Requirements For Petroleum UST Systems.

Rule 335–6–15–.16 Release Detection Requirements For Hazardous Substance UST Systems.

Rule 335–6–15–.17 Methods Of Release Detection For Underground Storage Tanks.

Rule 335–6–15–.18 Methods Of Release Detection For Underground Piping.

Rule 335–6–15–.19 Release Detection Recordkeeping, insofar as it imposes requirements on owners and operators.

Rule 335–6–15–.20 Reporting Of Suspected Releases.

Rule 335–6–15–.21 Investigation Due To Environmental Impacts.

Rule 335–6–15–.22 Release Investigation And Confirmation Steps.

Rule 335–6–15–.23 Reporting And Cleanup Of Spills And Overfills.

Rule 335–6–15–.24 Initial Release Response.

Rule 335–6–15–.25 Initial Abatement Measures And Preliminary Investigation.

Rule 335–6–15–.26 Preliminary Investigation Requirements.

Rule 335–6–15–.27 Free Product Removal.

Rule 335–6–15–.28 Secondary Investigation Requirements.

Rule 335–6–15–.29 Corrective Action Plan.

Rule 335–6–15–.30 Corrective Action Requirements.

Rule 335–6–15–.33 Temporary Closure.

Rule 335–6–15–.34 Permanent Closure And Changes-In-Service.

Rule 335–6–15–.35 Site Closure Or Change-In-Service Assessment.

Rule 335–6–15–.36 Applicability to Previously Closed UST Systems.

Rule 335–6–15–.37 Closure Records.

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Rule 335-6-15-.43 Financial Responsibility for Petroleum UST Owners And Operators.

Rule 335-6-15-.46 Operator Training.

Rule 335-6-15-.48 UST Systems With Field-Constructed Tanks And UST Systems With Airport Hydrant Fuel Distribution Systems.

(c) Copies of Alabama statutes that are incorporated by reference are available from the Legislative Services Agency, Alabama State House, Suite 613, 11 South Union Street, Montgomery, Alabama 36110-2400; Phone number: (334) 271-7700; website: <http://lsa.state.al.us>. Copies of Alabama regulations that are incorporated by reference are available at the following website: <http://www.alabamaadministrativecode.state.al.us>.

Arkansas

(a) The regulatory provisions include: Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 12 Storage Tanks, as amended effective August 24, 2018:

Chapter 1 General Provisions, Reg. 12.103 Definitions, except (B)(1), Reg. 12.104 Incorporation of Federal Regulations, Reg. 12.105 Records, Reg. 12.106 Entry and Inspection of Underground Storage Tank Facilities, Reg. 12.108 Notice Requirements, Reg. 12.109 Secondary Containment;

Chapter 2 Registration of Storage Tanks, Reg. 12.201(A);

Chapter 5: Licensing of Underground Storage Tank Installers and Service Personnel, Reg. 12.502 Definitions, Reg. 12.503 Applicability, Reg. 12.504 General Requirements, Reg. 12.505 Surety Requirement, Reg. 12.506 Notification Requirement, Reg. 12.507 Contractor Licensing, Reg. 12.508 Individual Licensing, Reg. 12.509 Contractor/Individual Licensing, Reg. 12.510 Experience Requirements, Reg. 12.511 Licensing Examination, Reg. 12.512 Renewal of Licenses, Reg. 12.513 Denial of Licenses, Reg. 12.514 Department Approval of Training and Continuing Education;

Chapter 6: Licensing of Underground Storage Tank Testers, Reg. 12.602 Definitions, Reg. 12.603 Applicability, Reg. 12.604 General Requirements, Reg. 12.605 Surety Requirement, Reg. 12.606 Company Licensing, Reg. 12.607 Individual Licensing, Reg. 12.608 Company/Individual Licensing, Reg. 12.609 Experience Requirements, Reg. 12.610 Renewal of Licenses, Reg. 12.611 Denial of Licenses, Reg. 12.612 Department Approval of Training and Continuing Education; and

Chapter 7: Operator Training, Reg. 12.702 Definitions, Reg. 12.703 Applicability, Reg. 12.704 General Requirements, Reg. 12.705 Class A Operator Certification, Reg. 12.706 Class B Operator Certification, Reg. 12.707 Class C Operator Training, Reg. 12.708 Operator Examination.

(b) Copies of the Arkansas regulations that are incorporated by reference are available

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from the Arkansas Department of Environmental Quality (ADEQ) website at <http://www.adeq.state.ar.us/regs/default.htm> or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317; Phone number: (501) 682-0923.

Colorado

(a) The statutory provisions include: *Colorado Revised Statutes (2018)*, Title 8 Labor and Industry, Article 20.5 Petroleum Storage Tanks, Part 1 Administration: Section 8-20.5-101(16) definition of “tank”.

(b) The regulatory provisions include:

(1) *Code of Colorado Regulations (May 1, 2018)*, 7 CCR 1101-14 “Department of Labor and Employment, Division of Oil and Public Safety, Storage Tank Regulations”:

Article 1 General Provisions:

Section 1-5 Definitions, except “above-ground storage tank” (AST), “aboveground storage tank (AST) system,” “fire resistant tank,” “motor fuel,” the phrase “or above ground” in the definition of “operator,” Item (3) in the definition of “owner” relative to ASTs, and paragraph relative to ASTs in the definition of “secondary containment”; 1-6 Glossary of Acronyms and Initializations;

Article 2 Underground Storage Tanks:

Section 2-1 UST Program Scope and Applicability; Subsections 2-1-1 Applicability; 2-1-2 Determination of ownership and use;

Section 2-2 UST Design, Construction, Installation and Registration; Subsections 2-2-1 Design and Performance standards for new and replaced UST systems; 2-2-2 Installation; 2-2-2-1 Installation Application; 2-2-2-2 Installation Requirements; 2-2-2-3 Installation Inspection; 2-2-3 UST System Registration; 2-2-4 Upgrading existing UST System; 2-2-5 Repairs;

Section 2-3 Operation; Subsections 2-3-1 Operator training; 2-3-1-1 Classes of Operators; 2-3-1-2 Class A Operator; 2-3-1-3 Class B Operator; 2-3-1-4 Class C Operator; 2-3-1-5 Acceptable Training and Certification Processes; 2-3-1-6 Training and Certification Deadlines and Schedules; 2-3-1-7 Retraining Requirements; 2-3-1-8 Documentation; 2-3-2 Spill and Overfill Prevention; 2-3-3 Corrosion Protection; 2-3-4 Release Detection; 2-3-4-1 General requirements for all UST systems; 2-3-4-2 Requirements for regulated substance UST Systems; 2-3-4-3 Requirements for Piping; 2-3-4-4 Requirements for hazardous substance UST systems; 2-3-5 Periodic testing of spill provision equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment; 2-3-6 Compliance inspections; 2-3-6-1 Monthly Compliance Inspections; 2-3-6-2 Annual Operational Compliance Inspections; 2-3-6-3 Inspections Conducted by the Director; 2-3-7 Reporting and Record Keeping;

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Section 2-4 Closure of UST Systems; Subsections 2-4-1 Temporary Closure; 2-4-2 Permanent Closure; 2-4-3 Site Assessment;

Section 2-5 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems; Subsections 2-5-1 Definitions; 2-5-2 General requirements; 2-5-3 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems;

Article 4 Release Identification And Reporting:

Sections 4-1 Suspected Releases; 4-2 Response to Suspected Releases; 4-3 Confirmed Releases;

Article 5 Release Response:

Section 5-1 Response to Confirmed Releases; Subsections 5-1-1 Acute human health hazards; 5-1-2 Chronic and secondary human health hazards and other environmental impacts; Section 5-2 Site Characterization;

Section 5-3 Corrective Action;

Section 5-4 No Further Action Request;

Article 7 Financial Responsibility Requirements For Owners/Operators Of Petroleum Underground Storage Tanks:

Section 7-1 Applicability;

Section 7-2 Financial Responsibility Mechanisms;

Section 7-3 Maintenance of Financial Responsibility.

(c) Copies of the Colorado statutes and regulations that are incorporated by reference are available from the following offices:

Statutes—Colorado Revisor of Statutes, 200 E. Colfax Avenue, Denver, CO 80203; Attn: Office of Legislative Legal Services; Phone number: (303) 866-2045; website: <https://leg.colorado.gov/agencies/office-legislative-legal-services/colorado-revised-statutes>.

Regulations—Colorado's Secretary of State, 1700 Broadway, Denver, CO 80290; Attn: Code of Colorado Regulations and Administrative Rules; Phone number: (303) 894-2200 ext. 6418; email: rules@sos.state.co.us; website: <https://www.sos.state.co.us/CCR/Welcome.do>.

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.

Delaware

(a) The statutory provisions include:

(1) Code of Delaware, Title 7, Chapter 74, Delaware Underground Storage Tank Act

Section 7401 Declaration of Purpose, *except as to persons who are not owners or operators of USTs*

Section 7402 Definitions, *except "responsible party" as to persons who are not owners or operators of USTs*

Section 7403 Referenced standards

Section 7404 Exemptions, *except as to agricultural and residential USTs of 1,100 gallons or less used for storing motor fuel for non-commercial purposes and USTs containing heating fuel for consumptive use on the premises where stored*

Section 7405 Registration by owner, *except (a)(2) and (3) as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 7406 Release of substances prohibited; correction of substance release; Department intervention, *except (a) through*

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the introductory paragraph of (e) as to persons who are not owners or operators of USTs; except (e)(1)–(3) and (f)–(j)

Section 7407 Release detection, prevention and correction regulations

Section 7409 Delaware Underground Petroleum Storage Tank Response Fund, *except (c) as to registration fees*

Section 7410 Financial Responsibility

Section 7413 Variances

Section 7414 Leaking Underground Storage Tank Committee

Section 7415 Implementation and reporting requirements

Section 7416 Groundwater risk assessment

Section 7417 Use of Hazardous Substance Cleanup Act funding

Section 7425 Certification of underground storage tank contractors, *except (a), (b), (d), and (e); (c) insofar as requires activities other than installation be completed by or in the presence of a certified individual*

(2) [Reserved]

(b) The regulatory provisions include:

(1) Delaware Administrative Code, Title 7, Chapter 1351, Underground Storage Tank Systems

PART A: GENERAL REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS

Section 1351-A-1.0 General Provisions, *except 1.2.1 as to persons who are not owners or operators of USTs, insofar as regulates UST systems not regulated under the federal regulations, and insofar as UST systems that contain de minimis concentrations of regulated substances are not explicitly exempt from regulation; 1.4; 1.6*

Section 1351-A-2.0 Definitions, *except “consumptive use” insofar as the term is limited to activities that do not result in monetary gain; “regulated substance” insofar as includes substances not regulated under the federal program; “responsible party” as to persons who are not owners or operators of USTs*

Section 1351-A-3.0 Referenced Standards, *except 3.1.10; 3.3.8*

Section 1351-A-4.0 Registration and Notification Requirements, *except 4.1.4 as to fees; 4.2; 4.5.2 and 4.6.2 as to USTs containing heating fuel for consumptive use on the premises where stored; 4.7.1 and 4.7.2 insofar as they require the Department to approve or deny construction work within fourteen days of receipt of notification form and construction plans; 4.9.1 insofar as requires permits be kept at the UST/construction site*

Section 1351-A-5.0 Recordkeeping

Section 1351-A-6.0 Alternative Procedures Approval Requirements

Section 1351-A-8.0 Submittal of Confidential Information, *except 8.1.1; 8.1.2; 8.1.4*

Section 1351-A-10.0 Requirements for Operator Training, *except 10.1.1 as to USTs containing heating fuel for consumptive use on the premises where stored*

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Section 1351-A-11.0 Use of Certified Contractors, *except insofar as requires a certified individual to be present for activities other than installation, and as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351-A-12.0 Request for No Further Action Determination, *except as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351-A-13.0 Additional Compatibility Requirements for Regulated Substances Containing Ethanol and Biodiesel

Section 1351-A-14.0 Conditions Required for Product Piping Slope Exemption

PART B: REQUIREMENTS FOR INSTALLATION, OPERATION AND MAINTENANCE OF UNDERGROUND STORAGE TANK SYSTEMS STORING REGULATED SUBSTANCE EXCLUDING CONSUMPTIVE USE HEATING FUEL OR HAZARDOUS SUBSTANCE UST SYSTEMS

Section 1351-B-1.0 Installation, Operation and Maintenance Requirements for UST Systems Storing Regulated Substance Excluding Consumptive Use Heating Fuel or Hazardous Substance Installed on or After January 11, 2008, *except 1.1.8; 1.3.2.4; 1.21.1, 1.22.1, 1.22.2, and 1.29.7.1 as to persons who are not owners or operators of USTs*

Section 1351-B-2.0 Installation, Operation and Maintenance Requirements for UST Systems Storing Regulated Substance Installed Prior to January 11, 2008, Excluding Consumptive Use Heating Fuel or Hazardous Substance, *except 2.1.8; 2.22.1, 2.23.1, 2.23.2, 2.30.7.1 as to persons who are not owners or operators of USTs*

Section 1351-B-3.0 Change in Service Requirements for UST Systems Storing Regulated Substance Excluding Consumptive Use Heating Fuel or Hazardous Substance

Section 1351-B-4.0 Removal or Closure in Place Requirements for UST Systems Storing Regulated Substance excluding Consumptive Use Heating Fuel or Hazardous Substance, *except 4.2.1.3*

Section 1351-B-5.0 Change In Substance Stored Requirements for UST Systems Storing Regulated Substance excluding Consumptive Use Heating Fuel or Hazardous Substance, *except 5.2.1.3*

Section 1351-B-6.0 Requirements for Empty UST Systems Storing Regulated Substance excluding Consumptive Use Heating Fuel or Hazardous Substance

PART D: REQUIREMENTS FOR INSTALLATION, OPERATION AND MAINTENANCE OF UNDERGROUND STORAGE TANK SYSTEMS STORING HAZARDOUS SUBSTANCE

Section 1351-D-1.0 Installation, Operation and Maintenance Requirements for UST Systems Storing Hazardous Substance, *except 1.3.2.4; 1.21.1, 1.22.1 and 1.22.2 as to persons who are not owners or operators of USTs*

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Section 1351-D-2.0 Change In Service Requirements for UST Systems Storing Hazardous Substance

Section 1351-D-3.0 Removal or Closure in Place Requirements for UST Systems Storing Hazardous Substance, *except 3.2.1.3*

Section 1351-D-4.0 Change In Substance Stored Requirements for UST Systems Storing Hazardous Substance, *except 4.2.1.3*

Section 1351-D-5.0 Requirements for Empty UST Systems Storing Hazardous Substance

PART E: REQUIREMENTS FOR REPORTING, RELEASE INVESTIGATION, REMEDIAL ACTION AND NO FURTHER ACTION DETERMINATIONS FOR UNDERGROUND STORAGE TANK SYSTEMS

Section 1351-E-1.0 Reporting Requirements, *except 1.2 and 1.3 as to persons who are not owners or operators of USTs*

Section 1351-E-2.0 Indicated Release Investigation Requirements, *except 2.1, 2.2, and 2.4 as to persons who are not owners or operators of USTs; 2.3.1 and 2.4.1.1 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351-E-3.0 Release Response Requirements, *except 3.1; 3.2 and 3.3 as to persons who are not owners or operators of USTs*

Section 1351-E-4.0 Hydrogeologic Investigation Requirements, *except as to persons who are not owners or operators of USTs*

Section 1351-E-5.0 Remedial Action Requirements, *except as to persons who are not owners or operators of USTs*

Section 1351-E-6.0 No Further Action Requirements, *except as to persons who are not owners or operators of USTs; 6.2.3 as to USTs containing heating fuel for consumptive use on the premises where stored*

PART F: FINANCIAL RESPONSIBILITY REQUIREMENTS FOR UST SYSTEMS

Section 1351-F-1.0 Financial Responsibility Requirements for UST Systems

Section 1351-F-2.0 Financial Responsibility Mechanisms

Sections 1351-F-3.1 to -3.18 Forms A through R

PART H: REQUIREMENTS FOR INSTALLATION, OPERATION AND MAINTENANCE OF FIELD-CONSTRUCTED UNDERGROUND STORAGE TANK SYSTEMS

Section 1351-H-1.0 General Requirements, *except 1.1.2.2 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351-H-2.0 Additions, Exceptions, and Alternatives for UST systems with Field-Constructed Tanks

PART I: REQUIREMENTS FOR INSTALLATION, OPERATION AND MAINTENANCE OF AIRPORT HYDRANT FUEL SYSTEMS

Section 1351-I-1.0 General Requirements, *except 1.1.2.2 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351-I-2.0 Additions, Exceptions, and Alternatives for Airport Hydrant Fuel Systems

(2) [Reserved]

District of Columbia

(a) The statutory provisions include:

(1) Code of the District of Columbia, Division I, Title 8, Subtitle A, Chapter 1, Subchapter VII, Underground Storage Tank Management, sections 8-113.01-113.12

Section 8-113.01. Definitions, *except (7)(C) and (9)(A)(ii)-(v)*

Section 8-113.02. Notification, *except (f)*

Section 8-113.03. Release notification requirements, *except (a) as to persons who are not owners or operators of underground storage tanks*

Section 8-113.06. Certification, registration and licensing, *except (b) as to fees; (c)-(d)*

(2) [Reserved]

(b) The regulatory provisions include:

(1) District of Columbia Municipal Regulations, Title 20, Chapters 55-67 and 70, Underground Storage Tanks

Chapter 55 Underground Storage Tanks—General Provisions

Section 5500 Compliance with District Laws, *except 5500.1(c)-(d); 5500.2*

Section 5501 Applicability of UST regulations, *except 5501.1 as to persons who are not owners or operators of underground storage tanks*

Section 5502 Partial Applicability of UST Regulations to Particular UST Systems

Section 5503 Partial Applicability of UST Regulations to Heating Oil Tanks, *except 5503.1-.2*

Section 5505 Applicability to Emergency Generator UST Systems

Section 5506 Industry Codes and Standards

Section 5507 Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

Chapter 56 Underground Storage Tanks—Notification, Registration, Recordkeeping, and Public Information

Section 5600 Notice of the Existence, Use, Purchase, Sale or Change in Service of an UST System, *except as to persons who are not owners or operators of underground storage tanks; 5600.1(b)*

Section 5601 Registration, *except 5601.1 as to tanks that store heating oil for use on the premises where stored; 5601.2-.3 as to payment*

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of fees; 5601.10 as to persons who are not owners or operators of underground storage tanks

Section 5602 Recordkeeping and Reports

Section 5603 Notice of Installation, Removal, Closure-in-Place, Repair, Upgrade, and Testing, *except 5603.5 insofar as requires permits*

Section 5604 Notice of Sale of Real Property, *except as to persons who are not owners or operators of underground storage tanks, 5604.3–.4*

Section 5607 Public Record Information

Chapter 57 Underground Storage Tanks—
New Tank Performance Standards

Section 5700 Existing and New UST Systems—General Provisions, *except 5700.4, .7, .8(b)*

Section 5701 New Petroleum UST Systems

Section 5702 New Hazardous Substance UST Systems

Section 5704 New Piping for UST Systems

Section 5705 Spill and Overfill Prevention Equipment for New and Upgraded UST Systems

Section 5706 Installation of New UST Systems, *except 5706.1 insofar as requires compliance with District fire codes*

Chapter 58 Underground Storage Tanks—
Operation and Maintenance of USTs

Section 5800 Existing UST System Upgrades

Section 5801 Tank Upgrades

Section 5802 Existing UST System Piping Upgrades

Section 5803 Spill and Overfill Prevention Equipment Upgrades

Section 5804 Tank Tightness Testing upon Upgrade

Chapter 59 Underground Storage Tanks—
Operation and Maintenance of USTs

Section 5900 Spill and Overfill Control, *except 5900.1–.3, .7 as to “agent in charge;” .10 as to “responsible party”*

Section 5901 Tank Corrosion Protection

Section 5902 Repair or Replacement of UST Systems

Section 5903 Compatibility

Section 5904 Walkthrough Inspections, *except 5904.5*

Chapter 60 Underground Storage Tanks—
Release Detection

Section 6000 Release Detection—General Provisions

Section 6001 Release Detection Recordkeeping

Section 6002 Release Detection for Hazardous Substance UST Systems

Section 6003 Release Detection for Petroleum UST System Tanks, *except 6003.4*

Section 6004 Release Detection for Petroleum UST System Piping

Section 6005 Inventory Control and Statistical Inventory Reconciliation

Section 6006 Manual Tank Gauging

Section 6007 Tank Tightness Testing

Section 6008 Automatic Tank Gauging

Section 6009 Vapor Monitoring

Section 6010 Groundwater Monitoring

Section 6011 Interstitial Monitoring

Section 6012 Statistical Inventory Reconciliation

Section 6013 Other Methods of Release Detection

Chapter 61 Underground Storage Tanks—
Closure

Section 6100 Temporary Closure, *except 6100.4*

Section 6101 Permanent Closure and Change-In-Service

Section 6102 Previously Closed UST Systems

Section 6103 Closure Records

Chapter 62 Underground Storage Tanks—
Reporting of Releases, Investigation, Confirmation, Assessment, and Corrective Action

Section 6200 Obligations of Responsible Parties—Releases, Spills, and Overfills

Section 6201 Reporting and Cleanup of Spills and Overfills

Section 6202 Reporting of Releases of Regulated Substances, *except 6202.2*

Section 6203 Site Investigation, Confirmation of Release, Initial Abatement, and Initial Site Assessment

Section 6204 Removal of Free Product

Section 6205 Comprehensive Site Assessment

Section 6206 Risk-Based Corrective Action (RBCA) Process

Section 6207 Corrective Action Plan and Its Implementation

Section 6208 Tier 0 Standards

Section 6209 Tiers 1 and 2 Standards

Section 6210 No Further Action and Case Closure Requirements, *except 6210.8 insofar as requires permits*

Section 6211 Public Participation in Corrective Action

Chapter 64 Underground Storage Tanks—
Corrective Action by the District and Cost Recovery

Section 6400 Corrective Action by the District

Section 6401 Cost Recovery

Chapter 65 Underground Storage Tanks—
Licensing, Certification, Operator Requirements, and Operator Training

Section 6500 Licensing and Certification of UST System Installers, Removers, Testers, and Technicians, *except 6500.1–.4, .6–.10*

Section 6502 Operator Designation

Section 6503 Operator Training and Training Program Approval

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Chapter 67 Underground Storage Tanks— Financial Responsibility

- Section 6700 Petroleum UST Systems
- Section 6701 Financial Responsibility Mechanisms
- Section 6702 Financial Responsibility Records and Reports
- Section 6703 Financial Test of Self-Insurance
- Section 6704 Financial Test of Self-Insurance: Test A
- Section 6705 Financial Test of Self-Insurance: Test B
- Section 6706 Guarantees
- Section 6707 Insurance and Risk Retention Group Coverage
- Section 6708 Surety Bonds
- Section 6709 Letter of Credit
- Section 6710 Private Trust Funds
- Section 6711 Standby Trust Funds
- Section 6712 Drawing on Financial Assurance Mechanism
- Section 6713 Replenishment of Guarantees, Letters of Credit, or Surety Bonds
- Section 6714 Cancellation or Non-Renewal of Financial Assurance
- Section 6715 Bankruptcy or Incapacity
- Appendix 67-1 Certification of Financial Responsibility
- Appendix 67-2 Financial Test of Self Insurance Letter From Chief Financial Officer
- Appendix 67-3 Guarantee
- Appendix 67-4 Certificate of Insurance
- Appendix 67-5 Endorsement
- Appendix 67-6 Performance Bond
- Appendix 67-7 Irrevocable Standby Letter of Credit
- Appendix 67-8 Trust Agreement
- Appendix 67-9 Certification of Valid Claim

Chapter 70 Underground Storage Tanks— Definitions

Section 7099 Definitions, *except 7099.1 the definitions of “agent in charge,” “authorized agent,” “voluntary remediating party,” and “voluntary remediation” and the definitions of “real property owner” and “responsible party” insofar as each definition includes persons who are not owners or operators of underground storage tanks*

(2) [Reserved]

Georgia

(a) The statutory provisions include: *Official Code of Georgia Annotated (2017), Title 12: “Conservation and Natural Resources,” Chapter 13, “Georgia Underground Storage Tank Act”*:

- Section 12-13-1 Short title.
- Section 12-13-2 Public policy.
- Section 12-13-3 Definitions, except (8) and (16)s
- Section 12-13-4 Exceptions to chapter.
- Section 12-13-9 Establishing financial responsibility; claims against the guarantor;

Underground Storage Tank Trust Fund, except (d) through (i).

Section 12-13-13 Notification by owner of underground storage tank, except (e).

(b) The regulatory provisions include: *Rules and Regulations of the State of Georgia (November 6, 2017), Department 391: “Rules of the Georgia Department of Natural Resources,” Chapter 3, “Environmental Protection,” Subject 15, “Underground Storage Tank Management”*:

Section 391-3-15-.01(3) General Provisions

Section 391-3-15-.02 UST Exclusions.

Section 391-3-15-.03 Definitions, except (1)(a), (1)(g), (1)(i), and (1)(p) through (r).

Section 391-3-15-.05 UST Systems: Design, Construction, Installation, and Notification, except (4).

Section 391-3-15-.06 General Operating Requirements.

Section 391-3-15-.07 Release Detection.

Section 391-3-15-.08 Release Reporting, Investigation, and Confirmation.

Section 391-3-15-.09 Release Response and Corrective Action for UST Systems Containing Petroleum, except (5) and (7).

Section 391-3-15-.10 Release Response and Corrective Action for UST Systems Containing Hazardous Substances.

Section 391-3-15-.11 Out-of-Service UST Systems and Closure.

Section 391-3-15-.12 Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements, except (3).

Section 391-3-15-.16 Operator Training.

Section 391-3-15-.17 Airport Hydrant Systems and Field Constructed Tanks.

(c) Copies of the Georgia statutes that are incorporated by reference are available from LexisNexis, Attn: Official Code of Georgia Annotated, 701 East Water Street, Charlottesville, VA 22902-5389; Phone number: 1-800-833-9844; website: http://sos.ga.gov/index.php/elections/georgia_code_lexisnexis.

Copies of the Georgia regulations that are incorporated by reference are available from the Administrative Procedures Division, Office of the Georgia Secretary of State, 5800 Jonesboro Road, Morrow, Georgia 30260; Phone number: (678) 364-3785; website: <http://rules.sos.ga.gov/gac/391-3-15>.

Hawaii

(a) The statutory provisions include:

(1) Hawaii Revised Statutes, Chapter 342L, Underground Storage Tanks.

Section 342L-1 Definitions (except “complaint” insofar as it sets forth enforcement authorities; “owner” insofar as it includes persons who hold indicia of ownership to protect an interest in a tank system; “permit” insofar as it sets forth a permitting program; and “regulated substance” insofar as it includes other substances as designated by the Department)

Section 342L-7.5 Record maintenance

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- Section 342L–30 Notification requirements (except paragraph (i) of this section insofar as it grants the Department authority to assess penalties for non-compliance)
- Section 342L–32 Standards for tanks and tank systems
- Section 342L–33 Release detection
- Section 342L–34 Reporting of releases
- Section 342L–35 Response to suspected or confirmed releases
- Section 342L–36 Financial responsibility
- Section 342L–37 Underground storage tank and tank system change in service and closure requirements
- Section 342L–50 Definitions (except “owner” insofar as it defines lenders as operators and subjects such lenders to requirements other than the corrective action requirements)
- (2) Hawaii Revised Statutes, Chapter 342D, Water Pollution.
- Section 342D–1 Definitions
- Section 342D–4 Duties; rules
- Section 342D–7 Variances (Insofar as paragraph (a) of this appendix is applicable to the underground storage tank program)
- Section 342D–38 Hazardous substance defined
- Section 342D–50 Prohibition
- Section 342D–51 Affirmative duty to report discharges
- (3) Hawaii Revised Statutes, Chapter 342E, Nonpoint Source Pollution Management and Control.
- Section 342E–1 Definitions
- Section 342E–2 Nonpoint source pollution management and control program
- (b) The regulatory provisions include:
- (1) Hawaii Administrative Rules, Chapter 11–281, Underground Storage Tanks
- Section 11–281–01 Applicability
- Section 11–281–02 Prohibition for deferred underground storage tanks or tank systems
- Section 11–281–03 Definitions (except “complaint” insofar as it sets forth enforcement authorities; “farm tank” insofar as it regulates tanks on farms that are not used for farm or commercial purposes; “field citation” and “force majeure” insofar as they relate to the Department’s enforcement authorities; “regulated substance” insofar as the Department can designate other substances; “reportable quantity” insofar as it sets forth a reporting threshold of 10 lbs. for trichloropropane; and “underground storage tank” insofar as its designation of farm tanks exceeds the scope of the federal regulations)
- Section 11–281–11 Performance standards for underground storage tanks and tank systems
- Section 11–281–12 Tank requirements
- Section 11–281–13 Piping requirements
- Section 11–281–14 Spill and overfill prevention equipment
- Section 11–281–15 Installation
- Section 11–281–16 Certification of installation
- Section 11–281–17 Secondary containment
- Section 11–281–18 Upgrading of existing underground storage tanks and tank systems
- Section 11–281–21 Notification requirements for tanks brought into use before the effective date of these rules
- Section 11–281–22 Notification requirements for tanks brought into use on or after the effective date of these rules
- Section 11–281–24 Application for a permit (except insofar as paragraphs (a), (b), (c)(3), and (c)(4) of this section relate to the permitting program)
- Section 11–281–25 Permit (except insofar as paragraphs (a) and (b) of this section relate to the permitting program)
- Section 11–281–41 Spill and overfill control
- Section 11–281–42 Operation and maintenance of corrosion protection systems
- Section 11–281–43 Compatibility
- Section 11–281–44 Repairs
- Section 11–281–45 Reporting and recordkeeping (except paragraph (b)(3) of this section insofar as it addresses posting of signs; and paragraph (c)(6) insofar as it requires maintenance of permit records)
- Section 11–281–51 General requirements for all underground storage tanks or tank systems
- Section 11–281–52 Methods of release detection for tanks
- Section 11–281–53 Methods of release detection for piping
- Section 11–281–54 Release detection recordkeeping
- Section 11–281–61 Reporting of suspected releases
- Section 11–281–62 Investigation of off-site impacts
- Section 11–281–63 Release investigation and confirmation steps
- Section 11–281–64 Reporting and cleanup of spills and overfills
- Section 11–281–71 General
- Section 11–281–72 Immediate response actions
- Section 11–281–74 Initial abatement measures and site assessment
- Section 11–281–75 Initial site characterization
- Section 11–281–76 Free product removal
- Section 11–281–77 Investigation of soil and ground water contamination
- Section 11–281–78 Site cleanup criteria
- Section 11–281–78.1 Notification of confirmed releases
- Section 11–281–79 Corrective action plan
- Section 11–281–80 Public participation for corrective action plans [except paragraph (j) insofar as it sets forth enforcement authorities]

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Section 11-281-80.1 Reporting and record-keeping
Section 11-281-81 Temporary closure
Section 11-281-82 Permanent closure and change-in-service
Section 11-281-83 Site assessment
Section 11-281-84 Previously closed underground storage tanks or tank systems
Section 11-281-85 Closure records
Section 11-281-91 Applicability
Section 11-281-93 Definition of terms
Section 11-281-94 Amount and scope of required financial responsibility
Section 11-281-95 Allowable mechanisms and combinations of mechanisms
Section 11-281-96 Financial test of self-insurance
Section 11-281-97 Guarantee
Section 11-281-98 Insurance and risk retention group
Section 11-281-99 Surety bond
Section 11-281-100 Letter of credit
Section 11-281-101 Trust fund
Section 11-281-102 Standby trust fund
Section 11-281-103 Local government bond rating test
Section 11-281-104 Local government financial test
Section 11-281-106 Local government guarantee
Section 11-281-107 Local government fund
Section 11-281-108 Substitution of financial assurance mechanisms by owner or operator
Section 11-281-109 Cancellation or non-renewal by a provider of financial assurance
Section 11-281-110 Reporting by owner or operator
Section 11-281-111 Recordkeeping
Section 11-281-112 Drawing on financial assurance mechanisms
Section 11-281-113 Release from financial responsibility
Section 11-281-114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance
Section 11-281-115 Replenishment of guarantees, letters of credit, or surety bonds
Section 11-281-131 Appendices I and III (Notification for Underground Storage Tanks, June 1999 and Certification of Underground Storage Tank Installation, June 1999)
(2) Hawaii Administrative Rules, Chapter 11-264, Hazardous Waste Management: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Subpart J, Tank Systems.
Section 11-264-190 Applicability
Section 11-264-191 Assessment of existing tank system's integrity
Section 11-264-192 Design and installation of new tank systems or components
Section 11-264-193 Containment and detection of releases

Section 11-264-194 General operating requirements
Section 11-264-195 Inspections
Section 11-264-196 Response to leaks or spills and disposition of leaking or unfit-for use tank systems
Section 11-264-197 Closure and post-closure care
Section 11-264-198 Special requirements for ignitable or reactive wastes
Section 11-264-199 Special requirements for incompatible wastes
Section 11-264-200 Air emission standards

Idaho

(a) The statutory provisions include:

(1) *Idaho Code, Title 39, "Health and Safety," Chapter 1, "Environmental Quality—Health":* Section 39-103, "Definitions," 39-103(3), (6), (7), (11), (12), (15)–(18); Section 39-107, "Board—Composition—Officers—Compensation—Powers—Subpoena—Depositions—Review—Rules," 39-107(7).

(2) *Idaho Code, Title 39, "Health and Safety," Chapter 88, "Idaho Underground Storage Tank Act":* Sections 39-8803, "Definitions," -8804, "Program Scope," -8805, "Rules Governing Underground Storage Tank Systems," -8805A, "Compliance Dates for Certain Rules," -8806, "Additional Measures to Protect Ground Water," -8807, "Operator Training," -8808, "Inspections," -8809, "Delivery Prohibition," and -8810, "Underground Storage Tank Database."

(b) The regulatory provisions include:

(1) *Idaho Administrative Code* 58, Title 01, Chapter 07:

Section 004 Incorporation by Reference;
Section 010 Definitions (except 010.16, defining "Replace");

Section 100 Additional Measures to Protect Ground Water from Contamination (except 100.01–.03);

Section 101 Alternative Periodic Testing of Containment Sumps Used for Interstitial Monitoring of Piping;

Section 300 Training Requirements.

(2) *Idaho Administrative Code* 58, Title 01, Chapter 24.

(c) Copies of the Idaho provisions that are incorporated by reference are available from Idaho's Office of Administrative Rules Coordinator, P.O. Box 83720, Boise, ID 83720; Phone number: 208-332-1820; website: <https://adminrules.idaho.gov/>.

Iowa

(a) The statutory provisions include Code of Iowa, 1993; Chapter 455B, Jurisdiction of Department:

Section 101—Definitions

Section 103—Director's duties, except for 455B.103(4)

Section 105—Powers and duties of the commission, except for 105(5), 105(11)a(3) and 105(11)b

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Section 471—Definitions
Section 472—Declaration of policy
Section 473—Report of existing and new tanks—fee
Section 473A—Petroleum underground storage tank registration amnesty program
Section 474—Duties of Commission—rules
Section 479—Storage tank management fee, except for the 2nd and 3rd sentences
(b) The regulatory provisions include Iowa Administrative Code, 1993, Rule 567, Environmental Protection Commission:
Chapter 131.1—Definitions
Chapter 131.2—Report of Hazardous Conditions
Chapter 133.1—Scope
Chapter 133.2—Definitions
Chapter 133.3—Documentation of contamination and source
Chapter 133.4—Response to contamination
Chapter 133.5—Report to commission
Chapter 135.1—Authority, purpose and applicability
Chapter 135.2—Definitions
Chapter 135.3—UST systems—design, construction, installation, and notification, except for 135.3(4)a, 3(4)b and 3(4)c
Chapter 135.4—General operating requirements
Chapter 135.5—Release detection
Chapter 135.6—Release reporting, investigation, and confirmation
Chapter 135.7—Release response and corrective action for UST systems containing petroleum or hazardous substances
Chapter 135.8—Site cleanup report
Chapter 135.9—Out-of-service UST systems and closure
Chapter 135.10—Laboratory analytical methods for petroleum contamination of soil and groundwater
Chapter 135.11—Evaluation of ability to pay
Chapter 136.1—Applicability
Chapter 136.2—Compliance dates
Chapter 136.3—Definition of terms
Chapter 136.4—Amount and scope of required financial responsibility
Chapter 136.5—Allowable mechanisms and combinations of mechanisms
Chapter 136.6—Financial test of self-insurance
Chapter 136.7—Guarantee
Chapter 136.8—Insurance and risk retention group coverage
Chapter 136.9—Surety bond
Chapter 136.10—Letter of credit
Chapter 136.11—Trust fund
Chapter 136.12—Standby trust fund
Chapter 136.13—Local government bond rating test
Chapter 136.14—Local government financial test
Chapter 136.15—Local government guarantee
Chapter 136.16—Local government fund

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Chapter 136.17—Substitution of financial assurance mechanisms by owner or operator
Chapter 136.18—Cancellation or nonrenewal by a provider of financial assurance
Chapter 136.19—Reporting by owner or operator
Chapter 136.20—Record keeping
Chapter 136.21—Drawing on financial assurance mechanisms
Chapter 136.22—Release from the requirements
Chapter 136.23—Bankruptcy or other incapacity of owner or operator or provider of financial assurance
Chapter 136.24—Replenishment of guarantees, letters of credit, or surety bonds.

Kansas

(a) The statutory provisions include Kansas Statutes Annotated, 2015; Chapter 65, Public Health; Article 34, Solid and Hazardous Waste; Section 100 *et seq.*, Kansas Storage Tank Act:

Section 100 Statement of legislative findings

Section 101 Citation of Act

Section 102 Definitions

Section 103 Exceptions to application of Act

Section 104 Notification to department of tank's existence

Section 105 Rules and regulations, except for 65-34, 105 (a)(2), the following words in (a)(8), "including determination of the qualifications of persons performing or offering to perform such testing," (a)(10), (a)(11), (a)(12) and the following words in (a)(13), "and aboveground storage tanks in existence on July 1, 1992" and "and aboveground storage tanks placed in service prior to July 1, 1992"

Section 106 Permit to construct, install, modify, or operate storage tank, except the following words in the title and (a), "construct, install, modify or" and "and any aboveground storage tank registered with the department on July 1, 1992,"

Section 107 Evidence of financial responsibility required; limitation of liability

Section 115 Liability for costs of corrective action

Section 118 Corrective action; duties of owners and operators; duties of Secretary; consent agreement; contents, except for the following words in (b), "or from the aboveground fund, if the release was from an aboveground petroleum storage tank." and "or from the aboveground fund, if the release was from an aboveground petroleum storage tank."

Section 135 Underground storage tank operators, training program, requirements

Section 138 Underground storage tank systems; secondary containment

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(b) The regulatory provisions include Kansas Administrative Regulations, 2020; Chapter 28, Department of Health and Environment; Article 44, Petroleum Products Storage Tanks:

Section 12 General provisions, except (c) and (d)

Section 13 Program scope and interim prohibition

Section 14 Definitions

Section 16 Underground storage tank systems: Design, construction, installation, modification, and notification

Section 17 Underground storage tank registration and operating permit, except (b), the following words in (c), “be assessed a penalty fee of \$50.00 for each tank if the owner fails to”, (d), (e), and (f)

Section 19 General operating requirements

Section 23 Release detection

Section 24 Release reporting, investigation, and confirmation

Section 25 Release response and corrective action for UST systems

Section 26 Out-of-service UST systems and closure

Section 27 Financial responsibility

Section 30 Operating training and requirements

Section 31 UST systems with field-constructed tanks and airport hydrant fuel distribution systems

Kentucky

(a) The statutory provisions include:

(1) *Kentucky Revised Statutes (KRS) Chapter 224.*

224.60–100 Underground storage tanks and regulated substances defined.

224.60–105(1) Registration of underground storage tanks—Programs to regulate tanks.

224.60–115 Definitions for KRS 224.60–120 to 224.60–150.

224.60–120 Financial responsibility of petroleum storage tank owner or operator—Administrative regulations, except (6).

224.60–135(1) Corrective action for a release into the environment from a petroleum storage tank, except the second sentence in (1).

(2) [Reserved]

(b) The regulatory provisions include:

(1) 401 Kentucky Administrative Regulations (KAR) Chapter 42.

401 KAR 42:005. Definitions for 401 KAR Chapter 42.

401 KAR 42:020. UST system requirements, notification, registration, and annual fees.

Section 1. Applicability and Exclusions.

Section 2. Notification, Registration, and Annual Fees, except (1)(b), (2)–(6), and certain provisions in (7)(c), (8) and (9).

Section 3. Temporary Closure, except (1).

Section 4. Performance Standards for New UST Systems.

Section 5. Upgrading of Existing UST Systems.

Section 6. Double Walled Tanks and Piping Requirements.

Section 8. Spill Containment Devices (Spill Buckets and Catch Basins).

Section 9. Overfill Prevention Requirements.

Section 10. Under-dispenser Containment (UDC) and Sump Requirements.

Section 11. Corrosion Protection Operation and Maintenance, except certain language in (4) and (9).

Section 12. Compatibility.

Section 13. Repairs, except (2).

Section 14. Noncorrodible Piping.

Section 15. Release Detection, except (6) and (7).

Section 16. Operator Training Requirements.

Section 17. Walkthrough Inspections.

Section 19. Recordkeeping.

Section 20. Financial Responsibility.

Section 21. Lender Liability.

Section 23. Incorporation by Reference.

401 KAR 42:060. UST system release and corrective action requirements.

Section 1. Reporting for Releases, Spills, and Overfills.

Section 3. Off-Site Impacts.

Section 4. Release Investigation and Confirmation.

Section 5. Release Response and Corrective Action.

Section 6. Permanent Closure or Change in Service.

Section 10. Incorporation by Reference.

(2) [Reserved]

Louisiana

(a) The regulatory provisions include:

Louisiana Administrative Code, Title 33, Part XI. Underground Storage Tanks; effective September 20, 2018:

1. Chapter 1. Program Applicability and Definitions

Section 101. Applicability

Section 103. Definitions except for sections a.i, iv, and v of the definition of *owner*; and the definitions of *on staff*, *registered tank*, *response action contractor*, and *technical services*

2. Chapter 3. Registration Requirements, Standards, and Fee Schedule

Section 301. Registration Requirements, all sections except 301.C.6

Section 303. Standards for UST Systems

Section 305. Installation Requirements for Partially-Deferred UST Systems

3. Chapter 5. General Operating Requirements

Section 501. Spill and overfill Control

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Section 503. Operation and Maintenance of Corrosion Protection

Section 505. Compatibility

Section 507. Repairs Allowed

Section 509. Reporting and Recordkeeping

Section 511. Periodic Testing of Spill Prevention Equipment and Containment Sumps used for Interstitial Monitoring of Piping and Periodic Inspection of Overfill Prevention Equipment

Section 513. Periodic Operation and Maintenance Walkthrough Inspection

4. Chapter 6. Training Requirements for Underground Storage Tank System Operators

Section 601. Purpose

Section 603. Underground Storage Tank Operator Classes

Section 605. Acceptable UST Operator Training and Certification Processes

Section 607. Underground Storage Tank Operator Training Deadlines

Section 609. Underground Storage Tank Operator Training Frequency

Section 611. Documentation of Underground Storage Tank Operator Training

5. Chapter 7. Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response

Section 701. Methods of Release Detection

Section 703. Requirements for Use of Release Detection Methods

Section 705. Release Detection Recordkeeping

Section 707. Reporting of Suspected Releases

Section 709. Investigation Due to Off-Site Impacts

Section 711. Release Investigation and Confirmation Steps

Section 713. Reporting and Cleanup of Spills and Overfills

Section 715. Release Response and Corrective Action for UST Systems Containing Petroleum, Motor Fuel, or Hazardous Substances, all sections except the last sentence of 715.A, and 715.H

6. Chapter 8. UST Systems with Field-Constructed tanks and Airport Hydrant Fuel Distribution Systems

Section 801. General Requirements

Section 803. Additions, Exceptions, and Alternatives for UST Systems with Field-Constructed Tanks and Airport Hydrant Systems

7. Chapter 9. Out-of-Service UST Systems and Closure

Section 901. Applicability to Previously Closed UST Systems

Section 903. Temporary Closure

Section 905. Permanent Closure and Changes-in-Service

Section 907. Assessing the Site at Closure or Change-in-Service

8. Chapter 11. Financial responsibility

Section 1101. Applicability

Section 1103. Compliance Dates

Section 1105. Definition of Terms

Section 1107. Amount and Scope of Required Financial Responsibility

Section 1109. Allowable Mechanisms and Combinations of Mechanisms

Section 1111. Financial Test of Self-Insurance

Section 1113. Guarantee

Section 1115. Insurance and Risk Retention Group Coverage

Section 1117. Surety Bond

Section 1119. Letter of Credit

Section 1123. Trust Fund

Section 1125. Standby Trust Fund

Section 1127. Substitution of Financial Assurance Mechanisms by Owner or Operator

Section 1129. Cancellation or Nonrenewal by a Provider of Financial Assurance

Section 1131. Reporting by Owner or Operator

Section 1133. Recordkeeping

Section 1135. Drawing on Financial Assurance Mechanisms

Section 1137. Release from the Requirements

Section 1139. Bankruptcy or Other Incapacity of Owner or Operator or provider of Financial Assurance

Section 1141. Replenishment of Guarantees, Letters of Credit, or Surety Bonds

(b) Copies of the Louisiana UST regulations that are incorporated by reference are available from the Louisiana Office of the State Register, P.O. Box 94095, Baton Rouge, LA 70804-9095; Phone number: (225) 342-5015; website: <https://www.doa.la.gov/Pages/osr/lac/LAC-33.aspx>; or Louisiana Department of Environmental Quality's website: <http://www.deq.louisiana.gov/resources/category/regulations-lac-title-33>.

Maine

(a) The statutory provisions include:

Maine Revised Statutes Annotated, Title 38. Waters and Navigation

1. Chapter 2. Department of Environmental Protection, Subchapter 1. Organization and Powers

Section 341-A. Department of Environmental Protection, Section 341-H. Departmental rulemaking, Section 342-B. Liability of fiduciaries and lenders, Section 343-E. Voluntary response action program, Section 347-C. Right of inspection and entry.

2. Chapter 3. *Protection and Improvement of Waters*, Subchapter 2–A. Oil Discharge Prevention and Pollution Control

Section 541. Findings; purpose, Section 542. Definitions, Section 543. Pollution and corruption of waters and lands of the State prohibited, Section 548. Removal of prohibited discharges.

3. Chapter 3. *Protection and Improvement of Waters*, Subchapter 2–B. Oil Storage Facilities and Ground Water Protection.

Section 561. Findings, purpose, Section 562–A. Definitions, Section 563. Registration and inspection of underground oil storage tanks and piping, except 9., Section 563–A. Prohibition of nonconforming underground oil storage facilities and tanks, Section 563–B. Regulatory powers of department, Section 564. Regulation of underground oil storage facilities used to store motor fuels or used in the marketing and distribution of oil, except 5., Section 566–A. Abandonment of underground oil storage facilities and tanks, Section 567–A. Certifications, Section 568. Cleanup and removal of prohibited discharges, except 3. and 4., Section 568–A. Fund coverage requirements, Section 568–B. Clean-up and Response Review Board created, Section 569–C. Limited exemption from liability for state or local governmental entities, Section 570. Liability, Section 570–F. Special provisions, Section 570–K. Aboveground oil storage facilities, Section, Section 570–N. Rules, wastewater treatment tank systems.

4. Chapter 13–D: Wellhead Protection.

Section 1391. Declaration of Policy, Section 1392. Definitions, Section 1393. Prohibition on installation of facilities in wellhead protection zones, Section 1394. Variances, Section 1398. Eligibility for Clean-up funds, Section 1399. Municipal authority, Section 1400. Rules.

(b) The regulatory provisions include:

1. 06–096, *Maine Department of Environmental Protection, Chapter 691, Rule for Underground Oil Storage Facilities*: (effective September 26, 2018).

Section 1. Legal Authority, Section 2. Pre-ambles; Section 3. Definitions, Section 4. Registration of Underground Storage Facilities, except O; Section 5. Regulation of Underground Oil Storage Facilities Used to Store Motor Fuels or Used in the Marketing and Distribution of Oil, except B. (4)(a), (d), (g), (h), and (j); (5)(b); D. (3)(f); (6)(b); (11)(e); (14)(c); (15)(f)(vii); (17); (19)(b); and F.; Section 7. Regulation of Facilities for the Underground Storage of Waste Oil, except B. (7); Section 8. Regulation of Field Constructed Underground Oil Storage Tanks, except B. (1)(d) and (e) and (4)(b), (d), and (e); Section 9. Regulation of Facilities for the Underground Storage of Heavy Oils, except B.; Section 10. Regulation of Airport Hydrant Sys-

tems, except B. (1)(c); (3)(b), (f), and (h); and D. (2); Section 11. Regulations for Closure of Underground Oil Storage Facilities; Section 12. Discharge and Leak Investigation, Response and Corrective Action Requirements, except A. (3); Section 13. Regulation of Wastewater Treatment Tank Systems and Aboveground Oil Storage Tanks, APPENDIX A: Requirements for Cathodic Protection Monitoring, APPENDIX B: Requirements for Tank, Piping and Containments Sump Tightness Tests, APPENDIX C: Requirements for Pneumatic (Air) and other Pre installation Tightness Testing, APPENDIX D: Installation Requirements Applicable to New and Replacement Tanks, APPENDIX E: Installation Requirements for New and Replacement Piping, APPENDIX F: Specifications and Requirements for Vertical Ground Water Monitoring Wells at Existing Facilities, APPENDIX H: Procedures for Weekly Monitoring, Handling, and Obtaining Samples for Laboratory Analysis, APPENDIX I: Sample Daily Inventory Reporting Log, APPENDIX J: Requirements for Abandonment of Underground Oil Storage Tanks by Removal, APPENDIX K: Requirements for Abandonment of Underground Oil Storage Tanks by Filling in Place, APPENDIX L: Requirements for Underground Oil Storage Tank Processing Facilities, APPENDIX M: Cathodic Protection Tester Certification Requirements, APPENDIX N: Corrosion Expert Certification Requirements, APPENDIX P: Requirements for Site Assessment at Facility Closure or Tank Abandonment, APPENDIX Q: Characterization and Notification Requirements, APPENDIX R: List of National Standards and Codes Cites, APPENDIX S: Department Approved Laboratory Analytical Methods and Performance Standards for Analysis of Oil and its Constituents in Water, Soil, Soil Gas and Indoor Air, APPENDIX T: Containment Sumps & Spill Bucket Integrity Testing Protocol & Management of Waste Fluids.

2. 06–096, Department of Environmental Protection; Chapter 693: Operator Training for Underground Oil, Hazardous Substance, and Field Constructed Underground Oil Storage Facilities, and Airport Hydrant Systems (effective September 26, 2018) only insofar as they pertain to the regulation of underground storage tanks in Maine and only insofar as they are incorporated by reference and are not broader in scope than the Federal requirements.

Massachusetts

(a) The statutory provisions include:

Massachusetts General Laws, Part I, Title II

1. Chapter 21E, *Massachusetts Oil and Hazardous Material Release Prevention and Response Act*

Section 1: Short title; Section 2: Definitions; Section 3: Implementation; regulations; response actions; Section 7: Notice of release or threat of release.

2. Chapter 210, *Operation and Removal of Underground Storage Tanks*

Section 2: Notification of operation of underground storage tanks; definitions; Section 3: Notification of operation of underground storage tanks; requirements; exceptions; Section 5: Notification of operation of underground storage tanks; regulations for requirements and standards of tanks;

(b) The regulatory provisions include:

1. *Code of Massachusetts Regulations, Title 310 CMR Chapter 80, Underground Storage Tank Systems* (effective January 2, 2015)

General Provisions Section, 80.01: Authority; 80.02: Purpose; 80.03: Definitions; 80.04: Applicability, (1) through (13), except (6)(c), and (8) through (12); 80.05: Rules of Construction; 80.06: Computation of Time; 80.07: Accurate and Timely Submittals to the Department and Record Keeping; 80.08: Accurate and Complete Record Keeping; 80.09: Accurate Monitoring; 80.11: Submittals to the Department.

Design, Construction and Installation Requirements Section, 80.14: General Requirements; 80.15: General Prohibitions; 80.16: Installation Requirements, except (7); 80.17: Specifications for Tanks; 80.18: Specifications for Regulated Substance Piping; 80.19: Leak Detection; 80.20: Requirements for Turbine, Intermediate and Dispenser Sumps; 80.21: Requirements for Spill Buckets and Overfill Prevention Equipment; 80.22: Requirements for Corrosion Protection.

General Operating Requirements Section, 80.23: Requirements for Registration and Reporting; 80.24: General Requirements; 80.25: Requirements for a UST system or UST Component Emergency Response; 80.26: Requirements for Leak Detection Systems; 80.27: Requirements for Turbine, Intermediate and Dispenser Sumps; 80.28: Requirements for Spill Buckets and Overfill Prevention Equipment; 80.29: Requirements for Corrosion Protection; 80.30: Requirements for Compatibility; 80.31: Requirements for Inventory Monitoring; 80.32: Requirements for Tank and Pipe/Line Tightness Testing; 80.33: Requirements for Repairs and Replacements; 80.35: Requirements for Monthly Inspections; 80.36: Requirements for Recordkeeping.

Leakage and Release: Response, Reporting and Remediation Section, 80.38: Response to a Release; 80.39: Response to Leakage; 80.40: Reportable Releases.

Change-In-Product, Out of Service Systems and Closure Section, 80.41: Requirements for Change-in-product; 80.42: Requirements for Taking a UST System Temporarily Out-of-service; 80.43: Requirements for Removal and Permanent Closure In-place; 80.44: Requirements for Out-of-use UST Systems; 80.45: Requirements for Bringing Out-of-use UST Sys-

tems Back into Service; 80.46: Requirements for Previously Closed-in-place UST Systems; 80.47: Standards for Cleaning and Closure.

Financial Responsibility Section, 80.51: Definitions; 80.52: Requirements for Amount and Scope of Financial Responsibility; 80.53: Allowable Mechanisms and Combinations of Mechanisms; 80.54: Requirements for Financial Responsibility Mechanisms; 80.55: Requirements for a Standby Trust; 80.56: Substitution of Financial Assurance Mechanisms by Owner or Operator; 80.57: Cancellation or Nonrenewal by a Provider of Financial Assurance; 80.58: Requirements for Reporting by Owner or Operator; 80.59: Requirements for Recordkeeping; 80.60: Requirements for Drawing on Financial Assurance Mechanisms; 80.61: Release from Financial Responsibility Requirements; 80.62: Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance; 80.63: Requirements for Replenishment of Local Government Guarantees, Letters of Credit, or Surety Bonds.

2. *Code of Massachusetts Regulations, Title 310 CMR Chapter 40: Massachusetts Contingency Plan* (effective April 24, 2014) only insofar as they pertain to the regulation of underground storage tanks in Massachusetts and only insofar as they are incorporated by reference and are not broader in scope than the federal requirements. Note that reserved sections of 310 CMR 40.0000 *et seq.* are not incorporated by reference:

Subpart A: General Provisions, except 40.0010 through 40.0013, 40.0016, 40.0019 through 40.0021, 40.0050, 40.0051; Subpart B: Organization and Responsibilities, except 40.0160, 40.0165, 40.0166, 40.0169, 40.0171; Subpart C: Notification of Releases and Threats of Release of Oil and Hazardous Material; Identification and Listing of Oil and Hazardous Material; Subpart D: Preliminary Response Actions and Risk Reduction Measures; Subpart E: Tier Classification and Response Action Deadlines; Subpart H: Comprehensive Response Actions; Subpart I: Risk Characterization; Subpart J: Permanent and Temporary Solutions; Subpart K: Audits; Subpart L: Cost Recovery, Lien Hearings and Petitions for Reimbursement of Incurred Costs; Subpart M: Administrative Record; Subpart N: Public Involvement and Technical Assistance Grants.

(c) Official copies of the Massachusetts statutes and regulations that are incorporated by reference, are available at: State Bookstore, State House, Room 116, Boston, MA 02133; Phone number: 617-727-2834; Hours: Monday–Friday, 8:45 a.m. to 5:00 p.m.; website: <http://www.sec.state.ma.us/spr/sprcat/catidx.htm>.

Minnesota

(a) The statutory provisions include:

(1) *Minnesota Statutes, Chapter 13, Government Data Practices*

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- M. S. 13.01 Government Data
- M. S. 13.02 Collection, security, and dissemination of records; definitions
- M. S. 13.03 Access to government data
- M. S. 13.04 Rights of subjects of data
- M. S. 13.05 Duties of responsible authority
- M. S. 13.06 Temporary classification
- M. S. 13.07 Duties of the commissioner
- M. S. 13.3806 Public health data coded elsewhere; subd. 1-3, 6, 10, 20: Scope; Certain epidemiologic studies; Public health studies; Health records; Health threat procedures; Hazardous substance exposure
- M. S. 13.741 Pollution control; environmental quality data
- M. S. 13.7411 Pollution control and environmental quality data coded elsewhere; subd. 1-3, 5-7: Scope; Environmental audits, performance schedules; Office of environmental assistance; Environmental response and liability; Petroleum tank release; Toxic pollution prevention plans
 - (2) *Minnesota Statutes, Chapter 115, Water Pollution Control; Sanitary Districts*
- M. S. 115.01 Definitions
- M. S. 115.061 Duty to notify and avoid water pollution
 - (3) *Minnesota Statutes, Chapter 115B, Environmental Response and Liability*
- M. S. 115B.17 State Response to Releases; subd. 1-3, 12-14: Removal and remedial action; Other actions; Cleanup standards; Public notice of proposed response actions; Duty to provide information; Authorization of certain response actions; Priorities; rules; Requests for review, investigation, and oversight
 - (4) *Minnesota Statutes, Chapter 115C, Petroleum Tank Release Cleanup*
- M. S. 115C.01 Citation
- M. S. 115C.02 Definitions
- M. S. 115C.021 Responsible person
- M. S. 115C.03 Response to releases [except subd. 10 insofar as it applies to contractors and consultants, who are not regulated under the federal program.]
- M. S. 115C.06 Effect on other law
- M. S. 115C.07 Petroleum tank release compensation board
- M. S. 115C.08 Petroleum tank fund [except subd. 3, which imposes a petroleum tank release cleanup fee on petroleum distributors]
- M. S. 115C.09 Reimbursement [except subd. 5(b) and 6, which set forth enforcement authorities]
- M. S. 115C.092 Tank Removals; Payment for pre-removal site assessment
 - (5) *Minnesota Statutes, Chapter 115E, Oil and Hazardous Substance Discharge Preparedness*
- M. S. 115E.01 Definitions
- M. S. 115E.02 Duty to prevent discharges
 - (6) *Minnesota Statutes, Chapter 116, Pollution Control Agency*
- M. S. 116.06 Definitions
- M. S. 116.46 Definitions [except subd. 8, insofar as it includes vessels, enclosures, or structures—which are exempt from the federal program—in the definition of UST.]
- M. S. 116.47 Exemptions [except insofar as paragraph (2) does not exclude from regulation tanks of 1,100 gallon capacity or more used to store heating oil for consumptive purposes]
- M. S. 116.48 Notification requirements [except subd. 1(b), insofar as it requires owners of aboveground storage tanks (ASTs) to notify the agency of the tank's status; subd. 2 and 6, insofar as they impose requirements on owners of ASTs; subd. 3, insofar as it imposes notification requirements on owners of ASTs removing a tank from service or changing the tank's service; subd. 4, insofar as it places notification requirements on persons transferring the title to regulated substances to be placed directly into an UST; and subd. 5, insofar as it imposes notification requirements on sellers of ASTs.]
- M. S. 116.49 Environmental protection requirements
 - (7) *Minnesota Statutes, Chapter 299F, Fire Marshal*
- M. S. 299F.011 Uniform Fire Code; adoption; subd. 1, 3, 4: Authority; Rules for code administration and enforcement; Applicability; local authority
- M. S. 299F.19 Flammable liquids and explosives; subd. 1: Rules
 - (b) The regulatory provisions include:
 - (1) *Minnesota Rules, Chapter 2890, Petroleum Tank Releases*
- 2890.0010 Definitions
- 2890.0060 Reimbursement of Costs
- 2890.0065 Reduction of Reimbursement Amount
- 2890.0070 Eligible Costs
- 2890.0071 Ineligible Costs
- 2890.0072 Overview of Rules Governing Reasonableness of Costs for Consultant Services
- 2890.0073 Definitions Related to Consultant Services
- 2890.0074 Written Proposal and Invoice Required for Consultant Services
- 2890.0075 Reasonableness of Work Performed; Standard Tasks for Each Step of Consultant Services
- 2890.0076 Maximum Costs for Consultant Services
- 2890.0077 Competitive Bidding Requirements for Consultant Services Proposals
- 2890.0078 Deviations from Standard Tasks and Maximum Costs for Consultant Services
- 2890.0079 Reasonable, Necessary, and Actual Consultant Services Costs
- 2890.0080 Overview of Rules Governing Reasonableness of Costs for Contractor Services
- 2890.0081 Definitions Related to Contractor Services
- 2890.0082 Maximum Costs for Contractor Services

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2890.0083 Competitive Bidding Requirements for Contractor Services
2890.0084 Deviations from Maximum Costs for Contractor Services
2890.0085 Reasonable, Necessary, and Actual Costs
2890.0086 Invoice
2890.0089 Exemptions from Competitive Bidding
2890.0090 Application Process
2890.0120 Funding of MPCA Actions
(2) *Minnesota Rules, Chapter 7045—Minnesota Pollution Control Agency, Hazardous Waste Division, Hazardous Waste*
7045.0275 Management of Hazardous Waste Spills
(3) *Minnesota Rules, Chapter 7060—Minnesota Pollution Control Agency, Water Quality Division, Underground Waters*
7060.0300 Definitions
7060.0500 Nondegradation Policy
7060.0600 Standards; subp. 2, 3, 4: Prohibition against discharge into unsaturated zone; Control measures; Toxic pollutants
7060.0800 Determination of Compliance
(4) *Minnesota Rules, Chapter 7105—Minnesota Pollution Control Agency, Water Quality Division, Underground Storage Tanks: Training*
7105.0010 Definitions [except subp. 25, insofar as it includes vessels, enclosures, and structures—which are exempt from the federal program—in the definition of UST.]
7105.0020 Purpose
7105.0030 General Provisions; subp. 3: Tank owner or operator requirements
7105.0040 Exclusions [except insofar as it does not exclude from regulation heating oil storage tanks with a storage capacity of greater than 1,100 gallons.]
(5) *Minnesota Rules, Chapter 7150—Minnesota Pollution Control Agency, Water Quality Division, Underground Storage Tanks Program*
7150.0010 Applicability [except subp. 2, insofar as it does not exclude from regulation liquid traps or associated gathering lines directly related to oil or gas production or gas production and gathering operations; subp. 2(H), insofar as it does not exclude from regulation tanks of 1,100 gallons or more used exclusively for storing heating oil for consumptive use; and subp. 5, insofar as it does not exclude owners and operators of heating oil storage tanks with a storage capacity of greater than 1,100 gallons from notification requirements.]
7150.0020 Interim Standards for Deferred Underground Storage Tank Systems
7150.0030 Definitions [except subp. 51, insofar as it includes vessels, enclosures, and structures—which are exempt from the federal program—in the definition of underground storage tanks]
7150.0100 Performance Standards for New Underground Storage Tank Systems
7150.0110 Upgrading of Existing Underground Storage Tank Systems
7150.0120 Notification Requirements

7150.0200 Spill and Overfill Control
7150.0210 Operation and Maintenance of Corrosion Protection
7150.0220 Compatibility
7150.0230 Repairs Allowed
7150.0240 Reporting and Recordkeeping
7150.0300 General Requirements for All Underground Storage Tank Systems [except subp. 3, insofar as it imposes release detection schedule requirements on hazardous material tanks not regulated under the federal program]
7150.0310 Requirements for Petroleum Underground Storage Tank Systems
7150.0320 Requirements for Hazardous Material Underground Storage Tank Systems
7150.0330 Methods of Release Detection for Tanks
7150.0340 Methods of Release Detection for Piping
7150.0350 Release Detection Recordkeeping
7150.0400 Temporary Closure
7150.0410 Permanent Closure and Changes-in-Service to Storage of Nonregulated Substances
7150.0420 Assessing the Site at Closure or Change in Service
7150.0430 Applicability to Previously Closed Underground Storage Tank Systems
7150.0440 Closure Records
(6) *Minnesota Rules, Chapter 7510—Department of Public Safety, Fire Marshal Division, Fire Safety*
7510.3670 Liquefied Petroleum Gases; Section 8203: Installation of containers [except insofar as it regulates ASTs]

Mississippi

(a) The statutory provisions include:

Mississippi Underground Storage Tank Act (the UST Act) of 1988, Miss. Code Ann. sections 49–17–401 to 49–17–435 (2022):

49–17–401 Short Title.

49–17–403 Definitions, except (b), (o), (p), and (q).

49–17–411 Compliance with regulations.

49–17–413 Rules and regulations, except for (1).

49–17–417 Repealed.

NOTE TO PARAGRAPH (a) OF APPENDIX A TO PART 282. Miss. Code Ann. section 49–17–413(2) is approved as part of the State UST Program to the extent that Mississippi will not grant a variance that makes its UST Program less stringent than the Federal regulations. In practice, Mississippi does not grant variances for the UST Program. Mississippi has agreed to execute a revised Memorandum of Agreement with EPA stating that Mississippi will limit the scope of its variance authority to only those situations where the Federal regulations allow the implementing agency to approve flexibilities.

(b) The regulatory provisions include:

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Mississippi's Underground Storage Tank Regulations, 11 Miss. Admin. Code Pt. 5, Ch. 2 (2018):

Rule 2.1 Program Scope and Interim Prohibition

280.10 Applicability.

280.11 Installation requirements for partially excluded UST systems.

280.12 Definitions, except for “dispensers” in the definition of “Ancillary equipment;” the definition of “Certificate of Operation;” “including 100% biodiesel or ethanol” from the definition of “Motor fuel;” “dispensers” and (c) from the definition of “New tank system;” “dispensers” from the definition of “Register;” “dispensers” and (c) from the definition of “Replace.”

280.13 Industry codes and recommended practices.

Rule 2.2 UST Systems: Design, Construction, Installation and Notification

280.20 Performance Standards for new UST systems, except for (j).

280.21 Upgrading of existing UST systems.

280.22 Notification requirements, except as applied to “dispensers” in (a) and (b).

Rule 2.3 General Operating Requirements

280.30 Operation and maintenance of spill and overfill prevention.

280.31 Operation and maintenance of secondary containment.

280.32 Operation and maintenance of corrosion protection.

280.33 Compatibility.

280.34 Repairs and replacements, except as applied to “dispenser(s)” in (g), (h), and (i).

280.35 Reporting recordkeeping, except as applied to “dispensers” in (a)(4); and except as applied to “shear valves” in (b)(1).

280.37 Operator training.

280.38 Operation and maintenance walkthrough inspections, except for (b)(1)(iii).

Rule 2.4 Leak Detection

280.40 General requirements for all UST systems.

280.41 Requirements for petroleum UST systems.

280.42 Requirements for hazardous substance UST systems.

280.43 Methods of leak detection for tanks.

280.44 Methods of leak detection for piping.

280.45 Leak detection recordkeeping.

Rule 2.5 Leak Reporting, Release Reporting, Investigation, and Confirmation

280.50 Reporting of leaks and suspected releases.

280.51 Investigation due to off-site impacts.

280.52 Release investigation and confirmation steps.

280.53 Reporting and cleanup of spills and overfills.

Rule 2.6 Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

280.60 General.

280.61 Initial response.

280.62 Initial abatement measures and site check.

280.63 Initial site characterization.

280.64 Free product removal.

280.65 Investigations for soil and groundwater cleanup.

280.66 Corrective action plan.

Rule 2.7 Out-of-Service UST Systems and Closure

280.70 Temporary closure.

280.71 Permanent closure and changes-in-service.

280.72 Assessing the site at closure or change-in-service.

280.73 Applicability to previously closed UST systems.

280.74 Closure records.

Rule 2.8 Financial Responsibility

280.90 Applicability.

280.91 Compliance dates, except for “including Indian tribes” in (e), and (f).

280.92 Definition of terms, except for “and includes Indian tribes” from the definition of “Local government.”

280.93 Amount and scope of required financial responsibility.

280.94 Allowable mechanisms and combinations of mechanisms.

280.95 Financial test of self-insurance.

280.96 Guarantee.

280.97 Insurance and risk retention group coverage.

280.98 Surety bond.

280.99 Letter of credit.

280.101 State fund or other State assurance.

280.102 Trust fund.

280.103 Standby trust fund.

280.104 Local government bond rating test.

280.105 Local government financial test.

280.106 Local government guarantee.

280.107 Local government fund.

280.108 Substitution of financial assurance mechanisms by owner or operator.

280.109 Cancellation or nonrenewal by a provider of financial assurance.

280.110 Reporting by owner or operator.

280.111 Recordkeeping.

280.112 Drawing on financial assurance mechanisms.

280.113 Release from the requirements.

280.114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.

280.115 Replenishment of guarantees, letters of credit, or surety bonds.

280.116 Suspension of enforcement. [Reserved]

Rule 2.9 Lender Liability

280.120 Definitions.

280.121 Participation in management.

280.122 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located.

280.123 Operating an underground storage tank or underground storage tank system.

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Rule 2.10 UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems.

280.130 Definitions.

280.131 General requirements.

280.132 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.

NOTE TO PARAGRAPH (B) OF APPENDIX A TO PART 282. 11 Miss. Admin. Code Pt. 5, Ch. 2, 280.42(b)(5) is approved as part of the UST Program only to the extent that Mississippi will not allow alternate release detection methods for hazardous substance UST systems installed on or after October 13, 2015. Sections 40 CFR 281.33(e) and 280.42(e) of the Federal regulations only allow alternate release detection methods for hazardous substance UST systems installed prior to October 13, 2015. Mississippi's section 280.42(b)(5) does not contain an analogous limitation on the use of alternative release detection methods. In practice, MDEQ does not allow alternative release detection methods for hazardous substance tanks installed after October 1, 2008. In a subsequent rulemaking, MDEQ will revise 11 Miss. Admin. Code Pt. 5, Ch. 2, R. 2.4, section 280.42(b)(5) to clarify this point.

(c) Copies of the Mississippi statutes and regulations that are incorporated by reference are available from the Mississippi Department of Environmental Quality, P.O. Box 2261, Jackson, MS 39235; Phone number: (601) 961-5171; website: <https://www.mdeq.ms.gov/water/groundwater-assessment-and-remediation/underground-storage-tanks/>.

Montana

(a) The statutory provisions include:

(1) *Montana Code Annotated (2017), Title 75 Environmental Protection, Chapter 11 Underground Storage Tanks, Part 2 Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act*: Sections 75-11-203(11) "operator" 75-11-203(12) "owner".

(2) *Montana Code Annotated (2017), Title 75 Environmental Protection, Chapter 11 Underground Storage Tanks, Part 5 Montana Underground Storage Tank Act*: Sections 75-11-503(4) "person", (8) "underground storage tank" or "tank", except as it applies to aboveground storage tanks.

(b) The regulatory provisions include:

(1) *Administrative Rules of Montana (October 6, 2018), Title 17 Department of Environmental Quality, Chapter 56 Underground Storage Tanks Petroleum and Chemical Substances*:

Subchapter 1 General Provisions:

Sections 17.56.101 Definitions; 17.56.102 Applicability, except 17.56.102(3)(e); 17.56.104 Tank Standards for Excluded UST Systems;

Subchapter 2 UST Systems: Design, Construction, and Installation:

Section 17.56.201 Performance Standards for New Tank Systems; 17.56.202 Upgrading of Existing UST Systems; 17.56.203 Additional Performance Standards for New Underground Piping Connected to Aboveground Tanks or to Underground Tanks with a Capacity of 660 Gallons or Less Used to Store Heating Oil; 17.56.204 Secondary Containment, Under-Dispenser Containment, and Interstitial Monitoring; 17.56.205 Anti-Siphon Requirements;

Subchapter 3 General Operating Requirements:

Sections 17.56.301 Spill and Overfill Control; 17.56.302 Operation and Maintenance of Corrosion Protection; 17.56.303 Compatibility; 17.56.304 Repairs; 17.56.305 Reporting and Recordkeeping; 17.56.306 Periodic Testing of Spill Prevention Equipment and Containment Sumps Used for Interstitial Monitoring of Piping and Periodic Inspection of Overfill Prevention Equipment; 17.56.307 Periodic Operation and Maintenance Walkthrough Inspections;

Subchapter 4 Release Detection:

Sections 17.56.401 General Requirements for all UST Systems; 17.56.402 Requirements for Petroleum UST Systems, except 17.56.402(1)(a)(iii); 17.56.403 Requirements for Hazardous Substance UST Systems; 17.56.407 Methods of Release Detection for Tanks; 17.56.408 Methods of Release Detection for Piping; 17.56.409 Release Detection Recordkeeping;

Subchapter 5 Release Reporting, Investigation, and Confirmation:

Sections 17.56.501 General; 17.56.502 Reporting of Suspected Releases; 17.56.503 Investigation Due to Off-site Impacts; 17.56.504 Release Investigation and Confirmation Steps; 17.56.505 Reporting and Cleanup of Spills and Overfills; 17.56.506 Reporting of Confirmed Releases; 17.56.507 Adoption by Reference;

Subchapter 6 Release Response and Corrective Action for Tanks Containing Petroleum or Hazardous Substances:

Sections 17.56.601 General; 17.56.602 Initial Response and Abatement Measures; 17.56.603 Initial Site History; 17.56.604 Remedial Investigation; 17.56.605 Cleanup Plan; 17.56.608 Adoption by Reference;

Subchapter 7 Out-of-Service UST Systems and Closure:

Sections 17.56.701 Inactive and Out-of-Service UST Systems, except 17.56.701(4); 17.56.702 Permanent Closure and Changes in Service; 17.56.703 Assessing the Site at Closure or Change in Service; 17.56.704 Applicability to Previously Closed UST Systems; 17.56.705 Closure Records;

Subchapter 8 Financial Responsibility:

Sections 17.56.801 Applicability; 17.56.802 Compliance Dates; 17.56.803 Definition of Terms; 17.56.804 Incorporation by Reference; 17.56.805 Amount and Scope of Required Financial Responsibility; 17.56.806 Allowable

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Mechanisms and Combinations of Mechanisms; 17.56.807 Financial Test of Self-Insurance; 17.56.808 Guarantee; 17.56.809 Insurance and Risk Retention Group Coverage; 17.56.810 Surety Bond; 17.56.811 Letter of Credit; 17.56.815 Montana Petroleum Tank Release Cleanup Fund; 17.56.816 Trust Fund; 17.56.817 Standby Trust Fund; 17.56.820 Substitution of Financial Assurance Mechanisms by Owner or Operator; 17.56.821 Cancellation or Non-renewal by a Provider of Financial Assurance; 17.56.822 Reporting by Owner or Operator; 17.56.823 Recordkeeping; 17.56.824 Drawing on Financial Assurance Mechanisms; 17.56.825 Release from the Requirements; 17.56.827 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance; 17.56.828 Replenishment of Guarantees, Letters of Credit, or Surety Bonds;

Subchapter 9 Notification:

Sections 17.56.901 Interim Notification Requirements; 17.56.902 Notification Requirements; 17.56.903 Change in Ownership, except 17.56.903(3);

Subchapter 15 Underground Storage Tank Operator Training:

Sections 17.56.1501 Operator Training Definitions; 17.56.1502 Operator Training, except the permit requirement in 17.56.1502(1); 17.56.1503 Operator Training: Authorized Providers; and Required Subjects; 17.56.1504 Operator Training: Recordkeeping; 17.56.1505 Operator Training: Third-Party Training Course Approval; and

Subchapter 16 Underground Storage Tank Systems with Field Constructed Tanks:

Section 17.56.1601 UST Systems with Field Constructed Tanks and Airport Hydrant Fuel Distribution Systems;

(c) Copies of the Montana statutes and regulations that are incorporated by reference are available from the following offices:

Statutes—Montana Legislative Services Division, P.O. Box 201706, Helena, MT 59620-1706; Phone number: 406-444-3064; email: LegPubSales@mt.gov; website: <https://leg.mt.gov/statute/>.

Regulations—Secretary of State's Administrative Rules Services, P.O. Box 202801, Helena, MT 59620-2801; Phone number: 406-444-9000; email: sosarm@mt.gov; website: <http://www.mtrules.org/>.

Nevada

(a) The statutory provisions include:

(1) Nevada Revised Statute Chapter 459, Underground Storage Tank Program (1992), Nevada Revised Statute 590, Petroleum Fund (1991).

(2) Nevada Revised Statute Chapter 459, Underground Storage Tank Program (1992):

Section 459.810 "Operator" defined.

Section 459.814 "Person" defined.

Section 459.816 "Regulated Substance" defined.

Section 459.818 "Release" defined.

Section 459.820 "Storage Tanks" defined.

Section 459.822 Department designated as state agency for regulation of storage tanks.

Section 459.828 Owner or operator of storage tank to provide department with certain information.

Section 459.838 Fund for the management of storage tanks: Creation: Sources: Claims.

Section 459.840 Fund for the management of storage tanks: Use; reimbursement; recovery by attorney general.

(3) Nevada Revised Statute 590, Petroleum Fund (1991):

Section 590.700 Definitions.

Section 590.710 "Board" defined.

Section 590.720 "Department" defined.

Section 590.725 "Diesel fuel of grade number 1" defined.

Section 590.726 "Diesel fuel of grade number 2" defined.

Section 590.730 "Discharge" defined.

Section 590.740 "Division" defined.

Section 590.750 "Fund" defined.

Section 590.760 "Heating oil" defined.

Section 590.765 "Motor vehicle fuel" defined.

Section 590.770 "Operator" defined.

Section 590.780 "Person" defined.

Section 590.790 "Petroleum" defined.

Section 590.800 "Storage tank" defined.

Section 590.810 Legislative findings.

Section 590.820 Board to review claims: Creation; members; chairman; administrative Assistance; compensation of members.

Section 590.830 Fund for cleaning up discharges of petroleum: Creation; administration by division; claims; interest.

Section 590.840 Collection of fee for certain fuels and heating oil; exempt products; payment of expenses of department.

Section 590.850 Registration of storage tanks: Collection of annual fee; exempt tanks; liability for noncompliance.

Section 590.860 Balance in fund to determine collection of fees by department.

Section 590.870 Report of discharge from tank required; division to clean up discharge; expectation; test of tank required for coverage.

Section 590.880 Allocation of costs resulting from discharge from certain storage tanks for heating oil.

Section 590.890 Allocation of costs resulting from discharge from other storage tanks.

Section 590.900 Liability for costs to clean up discharge caused by willful or wanton misconduct, gross negligence or violation of statute or regulation.

Section 590.910 Pro rata reduction required, if balance in fund insufficient for full payment.

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Section 590.920 Tanks exempted from provisions of Sections 590.850 to 590.910 inclusive; optional coverage of exempted tank.

(4) Nevada Civil Procedure, Rule 24 (1971): Nevada Civil Procedure, Rule 24 .

(b) The regulatory provisions includes:

(1) Nevada Administrative Code 459, UST Program (1990):

Section 459.9929 “Storage Tank” defined.

Section 459.993 Compliance with federal regulations.

Section 459.995 Financial responsibility of owners and operators.

Section 459.996 Releases: Reporting.

(2) Nevada Administrative Code 590, Petroleum Fund (1991):

Section 590.720 Adoption by reference of provisions of Code of Federal Regulations.

(3) Nevada Administrative Code, Reportable Quantities (1989):

Section 445.240 Notice required.

New Hampshire

(a) The statutory provisions include:

1. *New Hampshire Revised Statutes Annotated, Title I, The State and its Government, Chapter 21–O Department of Environmental Services*

Section O:1. Establishment, General Functions; Section O:8 Division of Waste Management.

2. *New Hampshire Revised Statutes Annotated, Title VI, Public Officers and Employees, Chapter 91–A Access to Government Records and Meetings*

Section 91–A:1 Preamble, Section 91–A:1–a Definitions, Section 91–A:4 Minutes and Records Available for Public Inspection.

3. *New Hampshire Revised Statutes Annotated, Title X Public Health, Chapter 146–C Underground Storage Facilities*

Section 146–C:1 Definitions; Section 146–C:2 Discharges Prohibited; Section 146–C:3 Registration of Underground Storage Facilities; Section 146–C:4 Underground Storage Facility Permit Required; Section 146–C:6 Transfer of Ownership; Section 146–C:6–a Exemption; Section 146–C:7 New Facilities; Section 146–C:8 Prohibition Against Reusing Tanks; Section 146–C:17 Operator Training Required; Section 146–C:18 Operator Training Program Requirements; Section 146–C:19 Additional Operator Requirements; Section 146–C:20 Revocation of Operator Training Program Approval; Section 146–C:21 Repeating Operator Trainings.

4. *New Hampshire Revised Statutes Annotated, Title L Water Management and Protection, Chapter 485–C Groundwater Protection Act*

Section 485–C:1 Statement of Purpose, Section 485–C:2 Definitions, Section 485–C:3 Duties of the Department, Section 485–C:5 Classes of Groundwater, Section 485–C:6 Ambient Groundwater Quality Standards, Section 485–C:6–a Groundwater Management Zones, Section 485–C:6–b Recordation of Groundwater Management Zone Permits, Section 485–C:7 Potential Contamination Sources, Section 485–C:8 Inventory and Management, Section 485–C:9 Procedures for Classification and Reclassification, Section 485–C:10 Degraded Groundwater, Section 485–C:11 Best Management Practices, Section 485–C:12 Prohibited Uses, Section 485–C:13 Groundwater Release Detection Permit, Section 485–C:14 Notice to Municipality, Section 485–C:14–b Notification of Groundwater Contamination Required.

(b) The regulatory provisions include:

1. *New Hampshire Code of Administrative Rules, Chapter Env-Or 400 Underground Storage Tank Facilities: (Effective October 10, 2018)*

Part Env-Or 401 Purpose, Applicability, Federal Regulations; Section 401.01 Purpose; Section 401.02 Applicability; Section 401.03 Exclusions, except 401.03(b); Section 401.04 Date of Incorporated Federal Regulations;

Part Env-Or 402 Definitions;

Part Env-Or 403 Reference Standards; Section 403.01 Availability and Applicability of Reference Standards; Section 403.02 American Petroleum Institute, Section 403.03 ASME International, Section 403.04 Fiberglass Tank and Pipe Institute, Section 403.05 NACE International, Section 403.06 National Fire Protection Association, Section 403.07 Petroleum Equipment Institute.

Part Env-Or 404 Registration; Permit to Operate; Required Notifications and Records; Financial Responsibility; Section 404.01 Registration; Section 404.02 Change from Use Not Previously Covered to Covered Use; Section 404.03 Change in Product; Section 404.04 Additional Information Required for Registration; Section 404.05 Signature Required, except 404.05(b)(3); Section 404.06 Permit to Operate Required; Section 404.07 Obtaining a Permit to Operate; Section 404.08 Display, Applicability, and Validity of Permit to Operate; Section 404.09 Records to be Maintained; Section 404.10 Transfer of Facility Ownership; Section 404.12 Financial Responsibility, except 404.12(d)(4) and (m); Section 404.13 Owner Liability.

Part Env-Or 405 Equipment Standards; Section 405.01 Tank Standards for UST Systems; Section 405.02 Piping Standards for UST Systems; Section 405.03 Secondary Containment for Tanks; Section 405.04 Secondary Containment and Sumps for Piping Systems; Section 405.05 Spill Containment,

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except 405.05(f) and (g);, and 405.12(a); Section 405.06 Overfill Protection; Section 405.07 Dispensing Areas, except for 405.07(a-c), (g), and (h); Section 405.08 Leak Monitoring Systems for Tanks; Section 405.09 Leak Monitoring Systems for Piping Systems; Section 405.10 Cathodic Protection Systems; Section 405.11 Changes to Cathodic Protection Systems.

Part Env-Or 406 Operation, Maintenance, and Testing; Section 406.01 On-Going Maintenance Required; Section 406.02 Operation and Maintenance of Leak Monitoring Systems; Section 406.03 Delivery or Transfer of Regulated Substances; Section 406.04 Unusual Operating Conditions; Section 406.05 Requirements for Tightness Testers and Test Methods; Section 406.06 Leak Rate Detection Criteria; Section 406.07 Requirements for Test Reports; Section 406.08 Test Failures; Section 406.09 Automatic Line Leak Detector Testing; Section 406.10 Cathodic Protection System Testing; Section 406.11 Overfill Prevention Device Testing; Section 406.12 Spill Containment Integrity Testing, except 406.12(c); Section 406.13 Leak Monitoring Equipment Testing; Section 406.14 Containment Sump Integrity Testing; Section 406.15 Hydrostatic Testing Test for Sumps and Spill Containment; Section 406.16 Pneumatic Tightness Test for Piping; Section 406.17 Primary Containment System Testing; Section 406.18 Monthly, Bi-Monthly, and Annual Visual Inspections; Section 406.19 Reports of Visual Inspections.

Part Env-Or 407 Installation Requirements, Section 407.06(a) UST System Design Requirements.

Part Env-Or 408 Repair, Closure, Removal; Section 408.01 Repair of Tanks: Pre-Repair Considerations and Requirements; Section 408.02 Repair of Tanks: Post-Repair Requirements; Section 408.03 Repair and Replacement of Underground Piping, Containment Sumps, and Spill Containment; Section 408.04 Temporary Closure; Section 408.05 Permanent Closure Required, except 408.05(f); Section 408.06 Permanent Closure: Notification and Supervision Required; Section 408.07 Procedures for Permanent Closure; Section 408.08 Permanent Closure: Site Assessment; Section 408.09 Permanent Closure: Inspection Required; Section 408.10 Permanent

Closure: Closure Report, Recordkeeping; Section 408.11 Limitations on Re-Use of Tanks. APPENDIX A: State Statutes and Federal Statutes/Regulation Implemented, APPENDIX B: Incorporation by Reference Information, APPENDIX C: Statutory Definitions, APPENDIX D: Excerpts from RSA 146-C, APPENDIX E: 40 CFR Provisions Referenced.

2. New Hampshire Code of Administrative Rules, Chapter Env-Or 600 Contaminated Site Management: (Effective June 1, 2015)

Part Env-Or 601 Purpose and Applicability, Section 601.01 Purpose, Section 601.02 Applicability.

Part Env-Or 602 Definitions.

Part-Env-Or 603 Groundwater Quality Criteria, Section 603.01 Groundwater Quality Criteria, Section 603.02 Exemptions to Groundwater Quality Criteria, Section 603.03 Ambient Groundwater Quality Standards (AGQS).

Part Env-Or 604 Notification, Section 604.01 Purpose, Section 604.02 Notification of Groundwater Quality Violation, Section 604.03 Exemptions to Notification of Groundwater Quality Violation, Section 604.05 NAPL Notification, Section 604.06 Discharges of Oil Requiring Immediate Notification, Section 604.07 Potential Discharges of Oil Requiring Notification Within 60 Days, Section 604.08 Oil Notification Requirements.

Part Env-Or 605 Preliminary Response Actions, Section 606.01 Purpose, Section 605.03 Emergency Response Actions for Oil Discharges, Section 605.04 Initial Response Actions, Section 605.05 Emergency and Initial Response Action Approval, Section 605.06 Emergency and Initial Response Action Reporting Requirements, Section 605.07 Initial Site Characterization Required, Section 605.08 Initial Site Characterization, Section 605.09 Initial Site Characterization Report, Section 605.10 Investigation Due to Discovery of Discharges from Unknown Sources.

Part Env-Or 606 Comprehensive Response Actions, Section 606.01 Site Investigation Required; Section 606.02 Site Investigation Request, Exemptions; Section 606.03 Site Investigation Report ; Section 606.04 Site Background Information; Section 606.05 Summary of Subsurface Explorations and Sampling; Section 606.06 Site Geology and Hydrology; Section 606.07 Conceptual Model; Section 606.08 Remedial Alternatives, Summary, and Recommendations; Section 606.09 Appendices; Section 606.10 Remedial Action Plan; Section 606.11 Remedial Action Plan Exemptions; Section 606.12 Remedial Action Plan Report; Section 606.13 Remedial Action Plan Approval; Section 606.14 Corrective Action Prior to Remedial Action Plan Approval; Section 606.15 Remedial Action Implementation; Section 606.16 Design Plans and Construction Specifications; Section 606.17 Remedial Action Implementation Report; Section 606.18 Periodic Status Report; Section 606.19 Soil Remediation Criteria; Section 606.20 Financial Assurance; Section 606.21 Financial Assurance Mechanisms.

Part Env-Or 609 Certificates of Completion or No Further Action, Section 609.01 Certificate of Completion, Section 609.02 Certificate of No Further Action.

Part Env-Or 610 Monitoring and Reporting, Section 610.01 Applicability, Section 610.02 Sampling and Analysis, Section 610.03 Reporting, Section 610.04 Groundwater Monitoring Wells.

Part Env-Or 611 Contaminated Soil, Section 611.01 Requirements for Managing Contaminated Soil, Section 611.02 Definitions, Section 611.03 Non-hazardous Oil-Contaminated Soil (NOCS) Certification, Section 611.04 Contaminated Soil Sampling, Section 611.05 Contaminated Soil Storage, Section 611.06 Contaminated Soil Disposal and Reuse.

Appendix A: State States and Federal Statutes/Regulations Implemented; Appendix B: Incorporation by Reference Information; Appendix C: Statutory Definitions.

New Mexico

(a) The statutory provisions include: New Mexico Statutes Annotated (NSA) 1978, as amended through May 16, 2018 (2018 Cumulative Supplement): Chapter 74, Environmental Improvement, Article 4 Hazardous Waste, sections 74–4–3(J), (R), and (S).

(b) The regulatory provisions include: New Mexico Administrative Code (NMAC), as amended effective July 24, 2018: Title 20 Environmental Protection, Chapter 5 Petroleum Storage Tanks:

Part 101: General Provisions—Sections 20.5.101.2 “Scope”; 20.5.101.7 “Definitions” (except “above ground storage tank” and “AST system”);

Part 102: Registration of Tanks—Sections 20.5.102.200 “Existing Tanks”, 20.5.102.201 “Transfer of Ownership”, and, 20.5.102.203 “Substantially Modified Storage Tank Systems” through 20.5.102.207 “Registration Certificate”;

Part 104: Operator Training—Sections 20.5.104.400 “Classes of Operators” through 20.5.104.412 “Documentation and Record-keeping”;

Part 105: Certification of Tank Installers and Junior Installers; Requirements for Testers—Sections 20.5.105.500 “General Requirements for Installer of UST Systems” through 20.5.105.508 “Individual Certification for Junior Installer of UST Systems”, and 20.5.105.510 “On-Site Examination for Installer” through 20.5.105.520 “Airport Hydrant Fuel Distribution Systems, UST Systems with Field-Constructed Tanks and Hybrid Storage Tank Systems”;

Part 106: New and Upgraded Underground Storage Tank Systems: Design, Construction, and Installation—Sections 20.5.106.600 “General Performance Standards for UST Systems” through 20.5.106.613 “Spill and Overfill Protection”, and 20.5.106.615 “Required Notification Prior to Installation” through 20.5.106.617 “Alternate Methods”;

Part 107: General Operating Requirements for Underground Storage Tank Systems—Sections 20.5.107.700 “Operation and Maintenance of Underground Storage Tank Sys-

tems” through 20.5.107.711 “Required Notification Prior to Replacement, Repair and Modification”; 20.5.107.713 “Alternate Methods” through 20.5.107.715 “Reporting”;

Part 108: Release Detection For Underground Storage Tank Systems—Sections 20.5.108.800 “General Release Detection Requirements for UST Systems” through 20.5.105.816 “Reporting”;

Part 113 Underground Storage Tank Emergency Generator Systems—Sections 20.5.113.1300 “General Requirements” through 20.5.113.1308 “Reporting”;

Part 114: Airport Hydrant Fuel Distribution Systems, UST Systems with Field-Constructed Tanks, and Hybrid Storage Tank Systems—Sections 20.5.114.1400 “General Requirements for Airport Hydrant Fuel Distribution Systems, UST Systems with Field-Constructed Tanks, and Hybrid Storage Tank Systems” through 20.5.114.1414 “Reporting”;

Part 115: Out-of-Service Storage Tank Systems and Closure—Sections 20.5.115.1500 “Required Notification Prior to Temporary or Permanent Closure, Return to Service, Removal, or Change in Service”; 20.5.115.1501 “Out-of-Service Storage Tank Systems and Closure” (except 20.5.115.1501.C(3), 1501.E, 1501.F(3), and 1501.G [for field-erected AST systems only]); and 20.5.115.1502 “Permanent Closure” through 20.5.115.1506 “Closure Records”;

Part 117: Financial Responsibility—Sections 20.5.117.1700 “Applicability”; 20.5.117.1703 “Amount and Scope of Required Financial Responsibility” through 20.5.117.1772 “Form Document for Drawing on Financial Assurance Mechanisms”;

Part 118: Reporting and Investigation of Suspected and Confirmed Releases—Sections 20.5.118.1800 “Reporting of Spill or Release” through 20.5.118.1803 “Spills and Overfills”;

Part 119: Corrective Action for Storage Tank Systems Containing Petroleum Products—Sections 20.5.119.1900 “General” (except 20.5.119.1900.G and 20.5.119.1900.H) through 20.5.119.1933 “Reporting”;

Part 120: Corrective Action for UST Systems Containing Other Regulated Substances—Sections 20.5.120.2000 “General” (except 20.5.120.2000.G and 20.5.120.2000.H) through 20.5.120.2030 “Reporting”;

Part 121: Corrective Action Fund Use and Expenditures—Sections 20.5.121.2100 “Permissible Fund Expenditures” through 20.5.121.2106 “Reserved Money”; and

Part 124: Lender Liability—Sections 20.5.124.7 “Definitions” through 20.5.124.2405 “Operating a Storage Tank or Storage Tank System After Foreclosure”.

(c) Copies of the New Mexico regulations that are incorporated by reference are available from the New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, NM 87507; Phone number:

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(505) 476-7941; website <http://164.64.110.134/nmac/>.

North Carolina

(a) The statutory provisions include:

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

§ 143-215.75 Title

§ 143-215.76 Purpose

§ 143-215.77 Definitions

§ 143-215.77A Designation of hazardous substances and determination of quantities which may be harmful

§ 143-215.78 Oil pollution control program

§ 143-215.80 Confidential information

§ 143-215.81 Authority supplemental

§ 143-215.82 Local ordinances

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

§ 143-215.84 Removal of prohibited discharges

§ 143-215.85 Required notice

§ 143-215.86 Other State agencies and State-designated local agencies

§ 143-215.87 Oil or Other Hazardous Substances Pollution Protection Fund

§ 143-215.88 Payment to State agencies or State-designated local agencies

§ 143-215.89 Multiple liability for necessary expenses

§ 143-215.90 Liability for damage to public resources

§ 143-215.93 Liability for damage caused

§ 143-215.93A Limitation on liability of persons engaged in removal of oil discharges

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

§ 143-215.94B Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund

§ 143-215.94D Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund

§ 143-215.94E Rights and obligations of the owner and operator

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

§ 143-215.94H Financial responsibility

§ 143-215.94I Insurance pools authorized; requirements

§ 143-215.94J Limitation of liability of the State of North Carolina

§ 143-215.94L Adoption of rules; administrative procedure; short title; miscellaneous provisions

§ 143-215.94M Reports

§ 143-215.94N Applicability

§ 143-215.94O Petroleum Underground Storage Tank Funds Council

§ 143-215.94P Groundwater Protection Loan Fund

§ 143-215.94T Adoption and implementation of regulatory program

§ 143-215.94V Standards for petroleum underground storage tank cleanup

(b) The regulatory provisions include:

North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2L: Groundwater Classification and Standards

1. Section .0100 General Considerations

.0101 Authorization

.0102 Definitions

.0103 Policy

.0104 Restricted Designation (RS)

.0105 Adoption by Reference (Repealed)

.0106 Corrective Action

.0107 Compliance Boundary

.0108 Review Boundary

.0109 Delegation

.0110 Monitoring

.0111 Reports

.0112 Analytical Procedures

.0113 Variance

.0114 Notification Requirements

.0115 Risk-Based Assessment and Corrective Action for Petroleum Underground Storage Tanks

2. Section .0200 Classifications and Groundwater Quality Standards

.0201 Groundwater Classifications

.0202 Groundwater Quality Standards

3. Section .0300 Assignment of Underground Water Classifications

.0301 Classifications: General

.0302 Statewide

.0303 Broad River Basin

.0304 Cape Fear River Basin

.0305 Catawba River Basin

.0306 Chowan River Basin

.0307 French Broad River Basin

.0308 Hiwassee River Basin

.0309 Little Tennessee River Basin

.0310 Savannah River Basin

.0311 Lumber River Basin

.0312 Neuse River Basin

.0313 New-Watauga River Basin

.0314 Pasquotank River Basin

.0315 Roanoke River Basin

.0316 Tar Pamlico River Basin

.0317 White Oak River Basin

.0318 Yadkin-Pee Dee River Basin

.0319 Reclassification

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

1. Section .0100 General Provisions

.0101 General (Except insofar as .0101(c) provides inspection and enforcement authority.)

.0102 Copies of referenced Federal regulations

.0103 Adoption by reference updates

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- .0104 Identification of tanks
 - 2. Section .0200 Program Scope and Interim Prohibition
 - .0201 Applicability (Except insofar as it subjects USTs containing de minimis concentrations of regulated substances to closure requirements)
 - .0202 Interim prohibition for deferred UST systems
 - .0203 Definitions
 - 3. Section .0300 UST Systems: Design, Construction, Installation, and Notification
 - .0301 Performance standards for new UST systems
 - .0302 Upgrading of existing UST systems
 - .0303 Notification requirements
 - 4. Section .0400 General Operating Requirements
 - .0401 Spill and overfill control
 - .0402 Operation and maintenance of corrosion protection
 - .0403 Compatibility
 - .0404 Repairs allowed
 - .0405 Reporting and recordkeeping
 - 5. Section .0500 Release Detection
 - .0501 General requirements for all UST systems
 - .0502 Requirements for petroleum UST systems
 - .0503 Requirements for hazardous substance UST systems
 - .0504 Methods of release detection for tanks
 - .0505 Methods of release detection for piping
 - .0506 Release detection recordkeeping
 - 6. Section .0600 Release Reporting, Investigation, and Confirmation
 - .0601 Reporting of suspected releases
 - .0602 Investigation due to off-site impacts
 - .0603 Release investigation and confirmation steps
 - .0604 Reporting and cleanup of spills and overfills
 - 7. Section .0700 Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances
 - .0701 General
 - .0702 Initial response
 - .0703 Initial abatement measures and site check
 - .0704 Initial site characterization
 - .0705 Free product removal
 - .0706 Investigations for soil and ground water cleanup
 - .0707 Corrective action plan
 - .0708 Public participation
 - 8. Section .0800 Out-of-Service UST Systems and Closure
 - .0801 Temporary closure
 - .0802 Permanent closure and changes-in-service (Except insofar as it subjects USTs containing de minimis concentrations of regulated substances to closure requirements)
 - .0803 Assessing the site at closure or change-in-service
 - .0804 Applicability to previously closed UST systems
 - .0805 Closure records
- 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
- 1. Section .0100 General Considerations
 - .0101 General (Except insofar as .0101(c) provides inspection and enforcement authority.)
 - .0102 Copies of referenced Federal regulations
 - .0103 Substituted sections
 - 2. Section .0200 Program Scope
 - .0201 Applicability
 - .0202 Compliance dates
 - .0203 Definitions (Except insofar as (b)(1) defines “annual operating fee”)
 - .0204 Amount and scope of required financial responsibility
 - 3. Section .0300 Assurance Mechanisms
 - .0301 Allowable mechanisms and combinations of mechanisms
 - .0302 Self insurance
 - .0303 Guarantee
 - .0304 Insurance and risk retention group coverage
 - .0305 Surety bond
 - .0306 Letter of credit
 - .0307 Standby trust fund
 - .0308 Insurance pools
 - .0309 Substitution of financial assurance mechanisms
 - .0310 Cancellation or nonrenewal by a provider of assurance
 - 4. Section .0400 Responsibilities of Owners and Operators
 - .0401 Reporting by owner or operator
 - .0402 Record keeping (Except insofar as (b)(2) addresses annual operating fee requirements.)
 - 5. Section .0500 Changes in Status
 - .0501 Drawing on financial assurance mechanisms
 - .0502 Release from the requirements
 - .0503 Incapacity of owner or operator or provider of assurance
 - .0504 Replenishment
- North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2P: Leaking Petroleum Underground Storage Tank Cleanup Funds
- 1. Section .0100 General Considerations
 - .0101 General (Except insofar as .0101(d) provides inspection and enforcement authority.)
 - .0102 Copies of rules incorporated by reference
 - .0103 False or misleading information
 - 2. Section .0200 Program Scope

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- .0201 Applicability (Except insofar as .0201(a) and (b) relate to annual operating fees.)
- .0202 Definitions (Except insofar as .0202 (b)(1) relates to annual operating fees.)
- 3. Section .0300 Annual Operating Fees
 - .0302 Notification
- 4. Section .0400 Reimbursement Procedure
 - .0401 Eligibility of owner or operator (Except insofar as .0401(b) relates to annual operating fees.)
 - .0402 Cleanup costs
 - .0403 Third party claims
 - .0404 Requests for reimbursement
 - .0405 Method of reimbursement
 - .0406 Reimbursement apportionment
 - .0407 Final action

North Dakota

- (a) The regulatory provisions include: North Dakota Administrative Code (NDAC), Chapter 33.1-24-08, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, as amended effective January 1, 2019:
 - Section 33.1-24-08-01 Applicability (technical standards and corrective action).
 - Section 33.1-24-08-02 Installation requirements for partially excluded underground storage tank systems.
 - Section 33.1-24-08-03 Definitions (technical standards, delivery prohibition, and corrective action).
 - Section 33.1-24-08-10 Performance standards for new underground storage tank systems.
 - Section 33.1-24-08-11 Upgrading of existing underground storage tank systems.
 - Section 33.1-24-08-12 Notification requirements.
 - Section 33.1-24-08-20 Spill and overfill control.
 - Section 33.1-24-08-21 Operation and maintenance of corrosion protection.
 - Section 33.1-24-08-22 Compatibility.
 - Section 33.1-24-08-23 Repairs allowed.
 - Section 33.1-24-08-24 Reporting and record-keeping.
 - Section 33.1-24-08-25 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.
 - Section 33.1-24-08-26 Periodic operation and maintenance walkthrough inspections.
 - Section 33.1-24-08-30 General release detection requirements for all underground storage tank systems.
 - Section 33.1-24-08-31 Release detection requirements for hazardous substance underground storage tank systems.
 - Section 33.1-24-08-32 Release detection requirements for hazardous substance underground storage tank systems.
 - Section 33.1-24-08-33 Methods of release detection for tanks.

- Section 33.1-24-08-34 Methods of release detection for piping.
- Section 33.1-24-08-35 Release detection recordkeeping.
- Section 33.1-24-08-38 Mechanisms for designating tanks ineligible for delivery.
- Section 33.1-24-08-39 Reclassifying ineligible tanks as eligible for delivery.
- Section 33.1-24-08-40 Reporting of suspected releases.
- Section 33.1-24-08-41 Investigation due to offsite impacts.
- Section 33.1-24-08-42 Release investigation and confirmation steps.
- Section 33.1-24-08-43 Reporting and cleanup of spills and overfills.
- Section 33.1-24-08-44 Unattended cardtrol facilities.
- Section 33.1-24-08-45 Operator designations and requirements for operator training.
- Section 33.1-24-08-46 Timing of operator training and reciprocity.
- Section 33.1-24-08-47 Operator retraining.
- Section 33.1-24-08-48 Operator training documentation.
- Section 33.1-24-08-50 General release response and corrective action for underground storage tank systems containing petroleum or hazardous substances.
- Section 33.1-24-08-51 Initial response.
- Section 33.1-24-08-52 Initial abatement measures and site check.
- Section 33.1-24-08-53 Initial site characterization.
- Section 33.1-24-08-54 Free product removal.
- Section 33.1-24-08-55 Investigations for soil and groundwater cleanup.
- Section 33.1-24-08-56 Corrective action plan.
- Section 33.1-24-08-60 Temporary closure.
- Section 33.1-24-08-61 Permanent closure and changes in service.
- Section 33.1-24-08-62 Assessing the site at closure or change in service.
- Section 33.1-24-08-63 Applicability to previously closed underground storage tank systems.
- Section 33.1-24-08-64 Closure records.
- Section 33.1-24-08-70 UST systems with field-constructed tanks and airport hydrant fuel distribution systems definitions.
- Section 33.1-24-08-71 General requirements.
- Section 33.1-24-08-72 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.
- Section 33.1-24-08-80 Applicability (financial responsibility).
- Section 33.1-24-08-81 Financial responsibility compliance dates.
- Section 33.1-24-08-82 Definitions (financial responsibility).
- Section 33.1-24-08-83 Amount and scope of required financial responsibility.
- Section 33.1-24-08-84 Allowable mechanisms and combinations of mechanisms.

Section 33.1–24–08–85 Financial test of self-insurance.

Section 33.1–24–08–86 Guarantee.

Section 33.1–24–08–87 Insurance and risk retention group coverage.

Section 33.1–24–08–88 Surety bond.

Section 33.1–24–08–89 Letter of credit.

Section 33.1–24–08–92 Trust fund.

Section 33.1–24–08–93 Standby trust fund.

Section 33.1–24–08–94 Local government bond rating test.

Section 33.1–24–08–95 Local government financial test.

Section 33.1–24–08–96 Local government guarantee.

Section 33.1–24–08–97 Local government fund.

Section 33.1–24–08–98 Substitution of financial assurance mechanisms by owner or operator.

Section 33.1–24–08–99 Cancellation or non-renewal by a provider of financial assurance.

Section 33.1–24–08–100 Reporting by owner or operator.

Section 33.1–24–08–101 Recordkeeping.

Section 33.1–24–08–102 Drawing on financial assurance mechanisms.

Section 33.1–24–08–103 Release from requirements.

Section 33.1–24–08–104 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.

Section 33.1–24–08–105 Replenishment of guarantees, letters of credit, or surety bonds.

Section 33.1–24–08–115 Definitions (lender liability).

Section 33.1–24–08–120 Participation in management (lender liability).

Section 33.1–24–08–125 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located (lender liability).

Section 33.1–24–08–130 Operating an underground storage tank or underground storage tank system (lender liability).

Appendix I.

Appendix II Statement of Shipping Tickets and Invoices.

(b) Copies of the North Dakota regulations that are incorporated by reference are available from North Dakota Legislative Council, Second Floor, State Capitol, 600 E Boulevard Avenue, Bismarck, North Dakota 58504; phone, 701–328–2916; website, <https://www.legis.nd.gov/agency-rules/north-dakota-administrative-code>.

Oklahoma

(a) The regulatory provisions include:
Oklahoma Administrative Code, Title 165, effective August 25, 2016;
 1, Chapter 25 “Underground Storage Tanks”.

Subchapter 1, General Provisions: Part 1, “Purpose”, Section 165:25–1–1; Part 3, “Definitions”, Section 165:25–1–11; Part 5, “Scope of Rules”, Sections 165:25–1–21, 165:25–1–23.1, and 165:25–1–24; Part 9, “Notification and Reporting Requirements”, Sections 165:25–1–41, 165:25–1–42, 165:25–1–48, 165:25–1–51; Part 11, “Recordkeeping”, 165:25–1–53 through 165:25–1–58, and 165:25–1–60; Part 19, “Operator Training”, Sections 165:25–1–120, 165:25–1–122 and 165:25–1–124.

Subchapter 2, “General Requirements for Underground Storage Tank Systems”, Part 1, “Codes and Standards”, Sections 165:25–2–1, 165:25–2–2 and 165:25–2–4, Part 3, “Design and Installation”, Sections 165:25–2–31 through 165:25–2–33, 165:25–2–35 through 165:25–2–41, Part 5, “Protection Against Corrosion”, Sections 165:25–2–51, 165:25–2–52, 165:25–2–53 and 165:25–2–53.1, Part 6, “Piping”, Sections 165:25–2–55.1 and 165:25–2–55.2, Part 7, “Dispensers”, Sections 165:25–2–71, 165:25–2–72, 165:25–2–73, 165:25–2–75 and 165:25–2–76; Part 9, “Electrical”, Section 165:25–2–91; Part 11, “Repairs to Underground Storage Tank Systems”, Section 165:25–2–111; Part 13 “Removal and Closure of Underground Storage Tank Systems”, Sections 165:25–2–131, and 165:25–2–133 through 165:25–2–138.

Subchapter 3, “Release Prevention and Detection Requirements”: Part 1, Release Prohibition Requirements”, Section 165:25–3–1; Part 2, “Release Detection Requirements and Methods”, Sections 165:25–3–6.20 through 165:25–3–6.29; Part 3, “Release Investigation Requirements”, Sections 165:25–3–7.1 and 165:25–3–8; Part 15, “Corrective Action Requirements”, Section 165:25–3–70.

Subchapter 5, “Upgrades”, Sections 165:25–5–1 through 165:25–5–4.

Subchapter 6, “Special Requirements for Underground Storage Tank Systems Utilized by Airports Open to the Public”, Part 1, “General Application and Compliance Provisions”, Section 165:25–6–1; Part 3, “Codes and Standards”, Section 165:25–6–7; Part 5, “Dispense Requirements”, Sections 165:25–6–13, 165:25–6–14, 165:25–6–15 and 165:25–6–17; Part 7, “Tank Filling Procedures”, Section 165:25–6–21; Part 9, “Dispensing Procedures”, Sections 165:25–6–27 and 165:25–6–28; Part 11, “Miscellaneous Safety Requirements”, Sections 165:25–6–34 and 165:25–6–35.

Subchapter 8, “Special Requirements for Underground Storage Tanks Utilized by Marinas”: Part 1, “General Application and Compliance Provisions”, Sections 165:25–8–1 and 165:25–8–2; Part 3, “Over-water Piping Requirements”, Sections 165:25–8–3 and 165:25–8–4; Part 5, “Dispenser Requirements”, Sections 165:25–8–14 through 165:25–8–17; Part 9, “Dispensing Procedures”, Section 165:25–8–29; Part 11, “Miscellaneous Safety Requirements”, Sections 165:25–8–35 and 165:25–8–36.

Subchapter 14, “Special Requirements for Underground Storage Tank Systems Utilized by Bulk Plant Facilities”: Part 1, “General

Application and Compliance Provisions”, Section 165:25-14-1; Part 3, “Dispenser Requirements”, Section 165:25-14-7; Part 5, “Loading Facilities”, Sections 165:25-14-13 and 165:25-14-14; Part 7, “Tank Filling Procedures”, Section 165:25-14-20; Part 9, “Dispensing Procedures”, Sections 165:25-14-26 and 165:25-14-27.

2. Chapter 27 “Indemnity Fund. Subchapter 1, “General Provisions”, Section 165:27-1-2; Subchapter 5, “Qualifications for Reimbursement”, Section 165:27-5-2; Subchapter 7, “Reimbursement”, Sections 165:27-7-2 and 165:27-7-6.

3. Chapter 29 “Corrective Action of Petroleum Storage Tank Releases”:

Subchapter 1, “General Provisions”: Part 1, “Purpose and Statutory Authority”, Sections 165:29-1-1 and 165:29-1-2; Part 3, “Definitions”, Section 165:29-1-11; Part 5, “Scope of Rules”, Section 165:29-1-21; Part 7, “National Industry Codes”, Sections 165:29-1-31 and 165:29-1-32.

Subchapter 3, “Release Prevention, Detection and Correction”: Part 1, “Release Prohibition, Reporting and Investigation”, Sections 165:29-3-1, 165:29-3-2 and 165:29-3-3; Part 3, “Removal and Closure of Petroleum Storage Tank Systems”, Section 165:29-3-65; Part 5, “Corrective Action Requirements”, Sections 165:29-3-71 through 165:29-3-76, Sections 165:29-3-78, 165:29-3-79, 165:29-3-80, 165:29-3-82 and 165:29-3-83.

(b) Copies of the Oklahoma regulations that are incorporated by reference are available from the State’s Office of Administrative Rules, Secretary of State, P.O. Box 53390, Oklahoma City, OK 73152-3390; Phone number: 405-521-4911; website: <https://www.sos.ok.gov/oar/Default.aspx>.

Oregon

(a) The statutory provisions include:

(1) Chapter 465, Hazardous Waste and Hazardous Materials I (Removal or Remedial Action Sections 465.200 through 465.425):

465.200 Definitions for ORS 465.200 to 465.425 (except for Sections 465.200(5) through (11) and (17) defining terms contained in the dry cleaning requirements; (13) “facility” insofar as it applies to a facility that is not an underground storage tank; (16) “hazardous substance” insofar as it applies to hazardous wastes and any substance that is not otherwise defined as a hazardous substance pursuant to section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act or that is not oil; (28) “underground storage tank” insofar as it includes any tank or piping that is excluded under ORS 466.710 and also any tank used to store heating oil for consumptive use on the premises where stored.)

465.255 Strict liability for remedial action costs for injury or destruction of natural resource; limited exclusions (except insofar as

this includes a person who is not an owner or operator of an underground storage tank and except insofar as the exclusions would exclude persons who would be liable under Section 9003(h)(6) of RCRA).

(2) Chapter 466, Hazardous Waste and Hazardous Materials II (Oil Storage Tanks):

466.706 Definitions for ORS 466.706 to 466.882 and 466.994 (except for the following definitions: Section 466.706(17) “regulated substance” insofar as it would include substances designated by the commission under subsection (c) that are not included under subsections (a) and (b) of this definition; (21) “underground storage tank” insofar as it includes any tank or piping that is excluded under ORS 466.710, and any tank used to store heating oil for consumptive use on the premises where stored.)

466.710 Application of ORS 466.706 to 466.882 and 466.994

466.740 Noncomplying installation prohibited

466.743 Training on operation, maintenance and testing; rules

466.765 Duty of owner or permittee of underground storage tank

466.770 Corrective action required on contaminated site

466.815 Financial responsibility of owner or permittee; rules; legislative review

466.825 Strict liability of owner or permittee

(b) The regulatory provisions include:

(1) Oregon Administrative Rules, Chapter 340, Division 122 insofar as the following rules apply to a release from an underground storage tank, excluding tanks used to store heating oil for consumptive use on the premises where stored.

340-122-0010 Purpose

340-122-0030 Scope and Applicability

340-122-0040 Standards

340-122-0047 Generic remedies

340-122-0050 Activities

340-122-0070 Removal

340-122-0071 Site Evaluation

340-122-0072 Preliminary Assessments

340-122-0073 Confirmation of Release

340-122-0080 Remedial Investigation

340-122-0084 Risk Assessment

340-122-0085 Feasibility Study

340-122-0090 Selection or Approval of the Remedial Action

340-122-0100 Public Notice and Participation

340-122-0110 Administrative Record

340-122-0115 Definitions insofar as the definition applies to an underground storage tank, excluding tanks used to store heating oil for consumptive use on the premises where stored

340-122-0120 Security Interest Exemption

340-122-0205 Purpose

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340-122-0210 Definitions except insofar as the definition of “responsible person” includes a person who does not own or operate an underground storage tank
340-122-0215 Scope and Applicability
340-122-0217 Requirements and Remediation Options
340-122-0218 Sampling and Analysis
340-122-0220 Initial Response
340-122-0225 Initial Abatement Measures and Site Check
340-122-0230 Initial Site Characterization
340-122-0235 Free Product Removal
340-122-0240 Investigation for Magnitude and Extent of Contamination
340-122-0243 Low-Impact Sites
340-122-0244 Risk-Based Concentrations
340-122-0250 Corrective Action Plan
340-122-0252 Generic Remedies
340-122-0260 Public Participation
340-122-0320 Soil Matrix Cleanup Options
340-122-0325 Evaluation of Matrix Cleanup Level
340-122-0330 Evaluation Parameters
340-122-0335 Numeric Soil Cleanup Standards
340-122-0340 Sample Number and Location
340-122-0345 Sample Collection Methods
340-122-0355 Evaluation of Analytical Results
340-122-0360 Reporting Requirements
(2) Oregon Administrative Rules, Chapter 340, Division 142 insofar as the following rules apply to a release from an underground storage tank, excluding tanks used to store heating oil for consumptive use on the premises where stored.
340-142-0001 Purpose and Scope
340-142-0005 Definitions as Used in This Division Unless Otherwise Specified
340-142-0030 Emergency Action
340-142-0040 Required Reporting
340-142-0050 Reportable Quantities
340-142-0060 Cleanup Standards
340-142-0070 Approval Required for Use of Chemicals
340-142-0080 Disposal of Recovered Spill Materials
340-142-0090 Cleanup Report
340-142-0100 Sampling/Testing Procedures
340-142-0130 Incident Management and Emergency Operations
(3) Oregon Administrative Rules, Chapter 340, Division 150.
340-150-0001 Purpose
340-150-0006 Applicability and General Requirements
340-150-0008 Exemptions and Deferrals
340-150-0010 Definitions
340-150-0020 UST General Permit Registration Certificate Required except insofar as this provision applies to a person who does not own or operate an underground storage tank and except insofar as the payment of fees is required

340-150-0021 Termination of Temporary Permits
340-150-0052 Modification of Registration Certificates for Changes in Ownership and Permittee except insofar as the payment of fees is required
340-150-0080 Denial, Suspension or Revocation of General Permit Registration Certificates except insofar as this provision applies to a person who does not own or operate an underground storage tank
340-150-0102 Termination of Registration Certificates
340-150-0110 UST General Permit Registration, Annual Compliance and Other Fees except insofar as the payment of fees is required
340-150-0135 General Requirements for Owners and Permittees
340-150-0137 UST Systems with Field-Constructed Tanks and Airport Hydrat Fuel Distribution Systems
340-150-0140 Requirements for Sellers of USTs
340-150-0156 Performance of UST Services by Owners or Permittees
340-150-0160 General Permit Requirements for Installing an UST System except insofar as this provision applies to a person who does not own or operate an underground storage tank
340-150-0163 General Permit Requirements for Operating an UST System except insofar as the payment of fees is required
340-150-0167 General Permit Requirements for Temporary Closure of an UST System except insofar as the payment of fees is required
340-150-0168 General Permit Requirements for Decommissioning an UST System by Permanent Closure except insofar as this provision applies to a person who does not own or operate an underground storage tank and except insofar as the payment of fees is required
340-150-0180 Site Assessment Requirements for Permanent Closure or Change-in-Service
340-150-0200 Training Requirements for UST System Operators and Emergency Response Information
340-150-0210 Training Requirements for UST Operators
340-150-0302 Installation of Used USTs
340-150-0310 Spill and Overfill Prevention Equipment and Requirements
340-150-0315 Periodic operation and maintenance walkthrough inspections
340-150-0320 Corrosion Protection Performance Standards for USTs and Piping
340-150-0325 Operation and Maintenance of Corrosion Protection
340-150-0350 UST System Repairs
340-150-0352 UST System Modifications and Additions
340-150-0354 UST System Replacements

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340-150-0360 Requirements for Internally Lined USTs
 340-150-0400 General Release Detection Requirements for Petroleum UST Systems
 340-150-0410 Release Detection Requirements and Methods for Underground Piping
 340-150-0420 Release Detection Requirements for Hazardous Substance UST Systems
 340-150-0430 Inventory Control Method of Release Detection
 340-150-0435 Statistical Inventory Reconciliation Method of Release Detection
 340-150-0440 Manual Tank Gauging Release Detection Method
 340-150-0445 Tank Tightness Testing for Release Detection and Investigation
 340-150-0450 Automatic Tank Gauging Release Detection Method
 340-150-0465 Interstitial Monitoring Release Detection Method
 340-150-0470 Other Methods of Release Detection
 340-150-0500 Reporting Suspected Releases
 340-150-0510 Suspected Release Investigation and Confirmation Steps
 340-150-0520 Investigation Due to Off Site Impacts
 340-150-0540 Applicability to Previously Closed UST Systems
 340-150-0550 Definitions for OAR 340-150-0555 and 340-150-0560
 340-150-0555 Compliance Dates for USTs and Piping
 340-150-0560 Upgrading Requirements for Existing UST Systems
 (4) Oregon Administrative Rules, Chapter 340, Division 151
 340-151-0001 Purpose
 340-151-0010 Scope and Applicability
 340-151-0015 Adoption and Applicability of United States Environmental Protection Agency Regulations
 340-151-0020 Definitions
 340-151-0025 Oregon-Specific Financial Responsibility Requirements

Pennsylvania

(a) The statutory provisions include:
 Pennsylvania Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32
 35 PS Section 6021.101 Short title
 35 PS Section 6021.102 Legislative findings
 35 PS Section 6021.103 Definitions (*except insofar as the section addresses aboveground storage tanks; encompasses a broader range of regulated substances; and insofar as certain classes of tanks excluded or deferred under the federal definition of "underground storage tank" are not excluded or deferred under the state definition*)
 35 PS Section 6021.104 API
 35 PS Section 6021.105 Advisory committee

35 PS Section 6021.106 Powers and duties of Environmental Quality Board (*except insofar as it addresses aboveground storage tanks*)
 35 PS Section 6021.107 Powers and duties of department (*except insofar as paragraphs (b), (c), (e), and (f) grant the Department enforcement authorities; and paragraph (d) establishes the Department's duties regarding a certification program*)
 35 PS Section 6021.109 Construction
 35 PS Section 6021.110 Applicability of certain provisions to the Commonwealth
 35 PS Section 6021.501 Underground storage tank requirements (*except insofar as subparagraph (a)(1) requires payment of registration fees; subparagraph (a)(8) sets forth permitting requirements; subparagraph (a)(12) addresses permitting; subparagraph (a)(15) regulates handlers of regulated substances; and paragraph (c) establishes a certified installer and inspector program*)
 35 PS Section 6021.502 Interim requirements and discontinued use (*except insofar as paragraph (a) establishes interim registration fees; and subparagraph (b)(5) requires tanks to be installed by a certified installer*)
 35 PS Section 6021.503 Registration (*except insofar as paragraph (a) requires payment of registration fees; paragraph (b) regulates selling, distributing, depositing or filling unregistered underground storage tanks; and paragraph (c) establishes uses for registration fees*)
 35 PS Section 6021.701 Financial responsibility
 35 PS Section 6021.702 Storage Tank Fund (*except insofar as paragraph (a) addresses aboveground storage tanks*)
 35 PS Section 6021.703 Underground Storage Tank Indemnification Board
 35 PS Section 6021.704 Underground Storage Tank Indemnification Fund (*except insofar as subparagraph (e)(3) addresses payment of fees*)
 35 PS Section 6021.705 Powers and duties of Underground Storage Tank Indemnification Board (*except insofar as paragraphs (d) and (e) address payment of fees*)
 35 PS Section 6021.706 Eligibility of claimants
 35 PS Section 6021.707 Audit
 35 PS Section 6021.708 Performance review
 35 PS Section 6021.710 Underground Storage Tank Environmental Cleanup Program
 35 PS Section 6021.711 Underground Storage Tank Pollution Prevention Program
 35 PS Section 6021.712 Upgrade Loan Program
 35 PS Section 6021.2101 Start-up costs (*except insofar as it addresses aboveground storage tanks*)
 35 PS Section 6021.2102 Saved from repeal
 35 PS Section 6021.2103 Severability
 35 PS Section 6021.2104 Repeals
 35 PS Section 6021.2105 Effective date
 (b) The regulatory provisions include:
 Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

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Section 245.1 Definitions (*except insofar as the section addresses aboveground storage tanks; encompasses a broader range of regulated substances; and includes individuals that are not regulated under the federal program under its definition of “responsible party”*)

Section 245.2 General

Section 245.31 Underground storage tank tightness testing requirements (*except insofar as paragraph (a) requires Department certification for underground tightness testing installers*)

Section 245.301 Purpose

Section 245.302 Scope

Section 245.304 Investigation of suspected releases

Section 245.305 Reporting releases (*except insofar as paragraph (h) addresses aboveground storage tanks*)

Section 245.306 Interim remedial actions (*except insofar as subparagraph (b)(3) requires permits for treatment and disposal activities; and paragraph (d) regulates parties removing contaminated materials*)

Section 245.307 Affected or diminished water supplies

Section 245.308 Onsite storage of contaminated soil

Section 245.309 Site characterization

Section 245.310 Site characterization report

Section 245.311 Remedial action plan

Section 245.312 Remedial action

Section 245.313 Remedial action completion report

Section 245.314 Professional seals

Section 245.401 Purpose

Section 245.402 Scope

Section 245.403 Applicability

Section 245.404 Variances

Section 245.405 Codes and standards

Section 245.421 Performance standards for new underground storage tank systems

Section 245.422 Upgrading of existing underground storage tank systems

Section 245.423 Registration requirements

Section 245.425 Reuse of removed tanks (*except insofar as subparagraph (1) requires installation by a certified installer*)

Section 245.431 Spill and overfill control

Section 245.432 Operation and maintenance including corrosion protection

Section 245.433 Compatibility

Section 245.434 Repairs allowed (*except insofar as subparagraph (1) requires repairs to be performed by a certified installer*)

Section 245.435 Reporting and record-keeping

Section 245.441 General requirements for underground storage tank systems (*except insofar as subparagraph (a)(3)(i) requires third-party verification; and subparagraph (a)(3)(ii) requires manufacturers to reevaluate methods within 24 months of EPA changes*)

Section 245.442 Requirements for petroleum underground storage tank systems

Section 245.443 Requirements for hazardous substance underground storage tank systems

Section 245.444 Methods of release detection for tanks

Section 245.445 Methods of release detection for piping

Section 245.446 Release detection record-keeping

Section 245.451 Temporary closure

Section 245.452 Permanent closure and changes-in-service

Section 245.453 Assessing the site at closure or change-in-service

Section 245.454 Applicability to previously closed underground storage tank systems

Section 245.455 Closure records

Section 245.701 Purpose

Section 245.702 Scope

Section 245.703 Owner or operator financial responsibility

Section 245.704 General requirements

Section 245.705 Owner and operator liability

Section 245.706 Underground storage tanks not covered by USTIF

Section 245.707 Coverage amounts for financial responsibility

Section 245.708 Failure to maintain financial responsibility

Puerto Rico

(a) The statutory provisions include:

1. Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Laws of Puerto Rico Annotated (L.P.R.A.) § 1121 *et seq.*

(1) Section 1121—Short title

(2) Section 1122—Purpose

(3) Section 1123—Declaration of policy

(4) Section 1124—Interpretation of legal provisions

(5) Section 1125—Duties of governmental agencies

(6) Section 1126—Savings clause

(7) Section 1127—Complementary character

(8) Section 1128—Annual report of Governor

(9) Section 1129—Creation of Board; composition; term

(10) Section 1130—Duties of Chairman

(11) Section 1130A—Consulting Council

(12) Section 1131—Functions and duties [Except paragraphs (10), (12), (19), (22), (23), (25), (26), (29), and (30), insofar as they outline enforcement authorities; paragraph (13), insofar as it addresses enforcement authorities, permit and license requirements and associated fees, as well as the NPDES and UIC programs; and paragraph (34), insofar as it relates solely to the solid and hazardous waste programs.]

(13) Section 1133—Consultation and use of facilities

(14) Section 1135—Character of Board for federal purposes [Except insofar as it addresses permit requirements.]

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- (15) Section 1135A—Administration of the Puerto Rico Water Pollution Control Revolving Fund
- (16) Section 1137—Confidential documents
- (17) Section 1138—Effectiveness of previous documents [Except insofar as it addresses permit and licensing requirements.]
- (18) Section 1140—Limitations
- (19) Section 1141—Definitions
- (20) Section 1142—Powers [Except insofar as (b)(5) sets forth enforcement authorities.]
 - (b) The regulatory provisions include:
 - 1. Underground Storage Tank Control Regulations, Regulation Number 4362, promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.
 - a. Part I—Program Scope and Interim Prohibition.
 - (1) Rule 101—Program Scope
 - (2) Rule 102—Purpose
 - (3) Rule 103—Applicability
 - (4) Rule 104—Interim Prohibition for Deferred UST Systems
 - (5) Rule 105—Definitions and Abbreviations [Except insofar as the Puerto Rico definition of “Underground Storage Tank or UST” does not exclude from regulation heating oil tanks used for storing heating oil for consumptive use on the premises where stored.]
 - b. Part II—UST Systems: Design, Construction, Installation, and Notification.
 - (1) Rule 201—Performance Standards for New UST Systems
 - (2) Rule 202—Upgrading of Existing UST Systems
 - (3) Rule 203—Notification Requirements
 - c. Part III—General Operating Requirements.
 - (1) Rule 301—Spill and Overfill Control
 - (2) Rule 302—Operation and Maintenance of Corrosion Protection
 - (3) Rule 303—Compatibility
 - (4) Rule 304—Repairs Allowed
 - (5) Rule 305—Reporting and Recordkeeping
 - d. Part IV—Release Detection.
 - (1) Rule 401—General Requirements for all UST Systems
 - (2) Rule 402—Requirements for Petroleum UST Systems
 - (3) Rule 403—Requirements for Hazardous Substance UST Systems
 - (4) Rule 404—Methods of Release Detection for Tanks
 - (5) Rule 405—Methods of Release Detection for Piping
 - (6) Rule 406—Release Detection Recordkeeping
 - e. Part V—Release Reporting and Investigation.
 - (1) Rule 501—Reporting of Suspected Releases
 - (2) Rule 502—Investigation Due to Off-site Impacts
 - (3) Rule 503—Release Investigation and Confirmation Steps
 - (4) Rule 504—Reporting and Cleanup of Spills and Overfills
 - f. Part VI—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances.
 - (1) Rule 601—General
 - (2) Rule 602—Initial Response
 - (3) Rule 603—Initial Abatement Measures and Site Check [Except insofar as 603(A)(5) requires owners and operators to obtain permits or franchises for drilling and installation of groundwater monitoring and/or extraction wells.]
 - (4) Rule 604—Initial Site Characterization
 - (5) Rule 605—Free Product Removal [Except insofar as 605(A) and 605 (D)(6) require owners and operators to obtain permits or franchises for drilling and installation of water monitoring and/or extraction wells.]
 - (6) Rule 606—Investigation for Soil and Groundwater Clean-up
 - (7) Rule 607—Corrective Action Plan
 - (8) Rule 608—Public Participation
 - g. Part VII—Out-Of-Service UST Systems and Closure.
 - (1) Rule 701—Temporary Closure
 - (2) Rule 702—Permanent Closure and Changes-in-Service
 - (3) Rule 703—Assessing the Site at Closure or Change-in-Service
 - (4) Rule 704—Applicability to Previously Closed UST Systems
 - (5) Rule 705—Closure Methods
 - h. Part VIII—Notification Requirements and Procedures.
 - (1) Rule 801—Notification of Underground Storage System
 - (2) Rule 802—Notification Requirements
 - (3) Rule 803—Notification Responsibility
 - (4) Rule 804—UST Notification Identification Number
 - (5) Rule 805—Changes to Facility Notification Data
 - i. Part IX—Financial Responsibility Requirements.
 - (1) Rule 901—Applicability
 - (2) Rule 902—Compliance Dates
 - (3) Rule 903—Definition of Terms
 - (4) Rule 904—Amount and Scope of Required Financial Responsibility
 - (5) Rule 905—Allowable Mechanisms and Combinations of Mechanisms
 - (6) Rule 906—Financial Test of Self-Insurance
 - (7) Rule 907—Guarantee
 - (8) Rule 908—Insurance and Risk Retention Group Coverage
 - (9) Rule 909—Surety Bond
 - (10) Rule 910—Letter of Credit
 - (11) Rule 911—Trust Fund
 - (12) Rule 912—Standby Trust Fund
 - (13) Rule 913—Substitution of Financial Assurance Mechanisms by Owner or Operator

- (14) Rule 914—Cancellation or Nonrenewal by a Provider of Financial Assurance
- (15) Rule 915—Reporting by Owner or Operator
- (16) Rule 916—Recordkeeping
- (17) Rule 917—Drawing on Financial Assurance Mechanisms
- (18) Rule 918—Release from the Requirements
- (19) Rule 919—Bankruptcy or Other Incapacity of Owner or Operator of Provider of Financial Assurance
- (20) Rule 920—Replenishment of Guarantees, Letters of Credit, or Surety Bonds
- (21) Rule 921—Suspension of Enforcement
- j. Part X—General Provisions.
 - (1) Rule 1001—Amendments to this Regulation
 - (2) Rule 1002—Monitoring, Recordkeeping, Reporting, Sampling, and Testing Methods
 - (3) Rule 1003—Malfunction or Non-compliance, Reporting
 - (4) Rule 1004—Confidentiality of Information
 - (5) Rule 1006—Public Notice and Public Hearings
 - (6) Rule 1009—Public Nuisance
 - (7) Rule 1011—Overlapping or Inconsistent Provisions
 - (8) Rule 1012—Derogation
 - (9) Rule 1013—Separability Clause
 - (10) Rule 1014—Effectiveness
- k. Part XI—General Prohibitions.
 - (1) Rule 1101—Purpose, Scope and Applicability
 - (2) Rule 1102—General Prohibitions

Rhode Island

- (a) The statutory provisions include:
 - 1. *Rhode Island General Laws, Title 42: State Affairs and Government; Chapter 42-17.1, Department of Environmental Management; Section 42-17.1-2, Powers and Duties.*
 - (31) standards for the quality of air, and water, and the location, design, construction, and operation of all underground storage facilities used for storing petroleum products or hazardous materials.
 - 2. *Rhode Island General Laws, Title 46: Waters and Navigation; Chapter 46-12. Water Pollution; Section 46-12-3, Powers and Duties of the Director.*
 - (4) accepting and administering loans and grants.
 - (21) standards for location, design, construction, maintenance, and operation of underground storage facilities used for storing petroleum products or hazardous materials to prevent, abate, and remedy the discharge of petroleum products and hazardous materials into the waters of the state.
 - (22) promulgate regulations for monitoring wells.
- (b) The regulatory provisions include:
 - 1. *Rhode Island Rules and Regulations for Underground Storage Facilities Used for Regu-*

lated Substances and Hazardous Materials, 250-RICR-140-25-1, (effective November 20, 2018)

- Section 1.1 Purpose.
- Section 1.2 Authority.
- Section 1.3 Incorporated Materials.
- Section 1.4 Applicability, except (E) and (G).
- Section 1.5 Definitions.
- Section 1.6 Administrative Findings.
- Section 1.7 Facility Registration.
- Section 1.8 Financial Responsibility, except (D).
- Section 1.10 Minimum UST Operation and Maintenance Requirements, except (C), (D), and (F)(4) and (T).
- Section 1.11 New and Replacement UST System Requirements, except (B)(1–3) and (5), (C)(1), (J)(1), and (L)(2).
- Section 1.12 Facility Modifications or Repairs, except (A).
- Section 1.13 Maintaining Records.
- Section 1.14 Leak and Spill Response.
- Section 1.15 Closure, except (D)(5).
- Section 1.16 Approval of Tank and/or Line Tightness Tests, Leak Detection Methods and Licensing Requirements, except (B), (D), (E), (F), (G) and (H).
- Section 1.17 Signatories to Registration and Closure Applications.
- Section 1.18 Transfer of Certificates of Registration and Closure.

South Carolina

- (A) The statutory provisions include:
 - State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44-2-10 to 44-2-150 (2010):*
 - 44-2-10 Short Title.
 - 44-2-20 Definitions.
 - 44-2-70 Financial responsibility of underground storage tank owners and operators; except the first sentence of (B).
 - 44-2-80 Release of regulated substance; containment, removal, and abatement.
 - (B) The regulatory provisions include:
 - South Carolina Underground Storage Tank Control Regulations, R.61-92 (2017):*
 - 280.10 Applicability, except (d).
 - 280.11 Installation requirements for partially excluded UST systems.
 - 280.12 Definitions.
 - 280.20 Performance standards for new UST systems, except for the text “obtain permits in accordance with section 280.23 and” in the introductory paragraph, and the text “on the Permit to Operate application form in accordance with Section 280.23” in (f).
 - 280.21 Upgrading of Existing UST systems.
 - 280.22 Notification requirements, except (h) and (i).
 - 280.24 Testing.
 - 280.25 Secondary containment required.
 - 280.30 Spill and overfill control.
 - 280.31 Operation and maintenance of corrosion protection.
 - 280.32 Compatibility.

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- 280.33 Repairs allowed.
- 280.34 Reporting and recordkeeping.
- 280.35 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.
- 280.36 Periodic operation and maintenance walkthrough inspections.
- 280.40 General requirements for all UST systems.
- 280.41 Requirements for petroleum UST systems.
- 280.42 Requirements for hazardous substance UST systems.
- 280.43 Methods of release detection for tanks.
- 280.44 Methods of release detection for piping.
- 280.45 Release detection recordkeeping.
- 280.50 Reporting of suspected releases.
- 280.51 Investigation due to off-site impacts.
- 280.52 Release investigation and confirmation steps.
- 280.53 Reporting and cleanup of spills and overfills.
- 280.60 General.
- 280.61 Initial response.
- 280.62 Initial abatement measures and site check.
- 280.63 Initial site characterization.
- 280.64 Free product removal.
- 280.65 Investigations for soil and groundwater cleanup.
- 280.66 Corrective action plan.
- 280.70 Temporary closure.
- 280.71 Permanent closure and changes-in-service.
- 280.72 Assessing the site at closure or change-in-service.
- 280.73 Applicability to previously closed UST systems.
- 280.74 Closure records.
- 280.90 Applicability.
- 280.91 Compliance dates.
- 280.92 Definition of terms.
- 280.93 Amount and scope of required financial responsibility.
- 280.94 Allowable mechanisms and combinations of mechanisms.
- 280.95 Financial test of self-assurance.
- 280.96 Guarantee.
- 280.97 Insurance and risk retention group coverage.
- 280.98 Surety Bond.
- 280.99 Letter of credit.
- 280.100 Use of state-required mechanism [Reserved].
- 280.101 State fund or other state assurance, except (b) through (e).
- 280.102 Trust Fund.
- 280.103 Standby trust fund.
- 280.104 Local government bond rating test.
- 280.105 Local government financial test.
- 280.106 Local government guarantee.
- 280.107 Local government fund.
- 280.108 Substitution of financial assurance mechanisms by owner or operator.
- 280.109 Cancellation or non-renewal by a provider of financial assurance.
- 280.110 Reporting by owner or operator.
- 280.111 Recordkeeping.
- 280.112 Drawing on financial assurance mechanisms.
- 280.113 Release from the requirements.
- 280.114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.
- 280.115 Replenishment of guarantees, letters of credit, or surety bonds.
- 280.116 Suspension of enforcement [Reserved].
- 280.200 Definitions.
- 280.210 Participation in management.
- 280.220 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located.
- 280.230 Operating an underground storage tank or underground storage tank system.
- 280.240 General requirement for all UST systems, except (b).
- 280.241 Designation of Class A, B, and C operators.
- 280.242 Requirements for operator training.
- 280.243 Timing of operator training.
- 280.244 Retraining.
- 280.245 Documentation.
- 280.250 Definitions.
- 280.251 General Requirements.
- 280.252 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.
- (C) Copies of the South Carolina statutes and regulations that are incorporated by reference are available from the South Carolina State Register, 223 Blatt Building, 1105 Pendleton Street, Columbia, South Carolina 29201; Phone number: (803) 212-4500; website: <https://www.scstatehouse.gov/>.

South Dakota

- (a) The statutory provisions include South Dakota Statutes Annotated, Chapter 34A-2, Sections 98 and 99. Underground Storage Tanks:
 - Section 98 Underground storage tanks—Definitions.
 - Section 99 Underground storage tanks—Adoption of Rules—Violation.
- (b) The regulatory provisions include State of South Dakota Administrative Rules, Chapter 74:03:28, Underground Storage Tanks, Department of Environment and Natural Resources, June 24, 1992:
 - Section 74:03:28:01 Definitions.
 - Section 74:03:28:02 Performance standards for new UST systems—General requirements.

Section 74:03:28:03 Upgrading of existing UST systems—General requirements and deadlines.

Section 74:03:28:04 Notification requirements for UST systems.

Section 74:03:28:05 Spill and overfill control.

Section 74:03:28:06 Operation and maintenance of cathodic protection.

Section 74:03:28:07 Compatibility.

Section 74:03:28:08 Repairs allowed—general requirements.

Section 74:03:28:09 Maintenance and availability of records.

Section 74:03:28:10 Release detection for all UST systems—general requirements and deadlines.

Section 74:03:28:11 Release detection requirements for petroleum UST systems.

Section 74:03:28:12 Release detection requirements for pressure piping.

Section 74:03:28:13 Recordkeeping.

Section 74:03:28:14 Release notification plan.

Section 74:03:28:15 Reported of suspected releases.

Section 74:03:28:16 Release investigation and confirmation.

Section 74:03:28:17 Off-site impacts and source investigation.

Section 74:03:28:18 General requirements for corrective action for releases from UST systems.

Section 74:03:28:19 Initial abatement requirements and procedures for releases from UST systems.

Section 74:03:28:20 Free product removal.

Section 74:03:28:21 Additional site investigation for releases from UST systems.

Section 74:03:28:22 Soil and groundwater cleanup for releases from UST systems.

Section 74:03:28:23 Reporting of releases from UST systems.

Section 74:03:28:28 Reporting of hazardous substance releases from UST systems.

Section 74:03:28:29 Temporary removal from use.

Section 74:03:28:30 Temporary closure.

Section 74:03:28:31 Permanent closure.

Section 74:03:28:32 Postclosure requirements.

Section 74:03:29:01 Applicability.

Section 74:03:29:23 Definitions.

Section 74:03:29:24 Financial responsibility rules.

Tennessee

(A) The statutory provisions include:
Tennessee Petroleum Underground Storage Tank Act (the UST Act) of 1988, Tenn. Code Ann. sections 68–215–101 to 68–215–204 (2018):
 68–215–101 Short Title.
 68–215–103 Definitions, except (17)(A)(iii) and (iv).

68–215–104 Prohibitions, except (3) and (4).
 68–215–105 Minimum standards.
 68–215–106 Notice; certificates and certification; except (a)(6), (b)(1), (b)(2), and (c) through (f).
 68–215–107 Supervision; orders; enforcement; rules and regulations; except (a) through (g)(1).
 68–215–110 Fund; environmental assurance fee; except (b) through (h).
 68–215–112 Repealed.
 68–215–113 Repealed.
 68–215–124 Exemptions.
 68–215–128 Obsolete.
 68–215–130 Repealed.
 68–215–201 Definitions.
 68–215–202 Ownership of petroleum site or petroleum underground storage tank or property on which a petroleum site or petroleum underground tank is located.
 68–215–203 Operation prior to and after foreclosure.
 68–215–204 Participation in the management.

(B) The regulatory provisions include:
Tennessee's Underground Storage Tank Regulations, Tenn. Comp. R. & Regs. 0400–18–01–.01 to .17 (2018):
 0400–18–01–.01 Program Scope, Definitions, and Proprietary Information Applicability; except (4)1.(iii) and (iv) of the definition for “Responsible party” and (5).
 0400–18–01–.02 UST Systems: Installation and Operation; except (1)(a)2. and (4)(c)6.(ii)(II)IV.
 0400–18–01–.03 Notifications, Reporting, and Record Keeping.
 0400–18–01–.04 Release Detection; except (1)(e).
 0400–18–01–.05 Release Reporting, Investigation, and Confirmation; except (1)(b) and (c).
 0400–18–01–.06 Petroleum Release Response, Remediation, and Risk Management; except for the text “The fund shall not reimburse the owner, operator, and/or other responsible party of petroleum UST system for the cost of generating duplicate data” in (2)(b)1. Also, except (3)(f), (7)(c), and (11)(b) and (c).
 0400–18–01–.07 Out-of-Service UST Systems and Closure; as to Appendix 0400–18–01–.07–A, except for the text “transport and” in (4)(a). Also, except (4)(e).
 0400–18–01–.08 Financial Responsibility; except (5)(a), (5)(b), (20), and (21).
 0400–18–01–.12 Indicia of Ownership; except (3) and (4).
 0400–18–01–.13 Reserved.
 0400–18–01–.16 Certified Operator Program.
 0400–18–01–.17 UST Systems with Field-Constructed Tanks and Airport Hydrant Systems.

(C) Copies of the Tennessee statutes and regulations that are incorporated by reference are available from the Tennessee Department of Environment and Conservation,

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Division of Underground Storage Tanks, William R. Snodgrass Tennessee Tower, 12th Floor, 312 Rosa L. Parks Ave., Nashville, TN 37243; Phone number: (615) 532-0730; website: <https://www.tn.gov/environment/program-areas/ust-underground-storage-tanks/ust/act-rules-and-policies.html>.

Texas

(a) The regulatory provisions include:

1. *Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 37 Financial Assurance, as amended effective through May 31, 2018:*

Subchapter I. Financial Assurance for Petroleum Underground Storage Tank Systems

- Section 37.801 Applicability
- Section 37.802 Definitions
- Section 37.815 Amount and Scope of Required Financial Assurance
- Section 37.820 Allowable Mechanisms and Combinations of Mechanisms
- Section 37.825 Financial Test of Self-Insurance
- Section 37.830 Guarantee
- Section 37.835 Insurance and Risk Retention Group Coverage
- Section 37.840 Surety Bond
- Section 37.845 Letter of Credit
- Section 37.850 Trust Fund
- Section 37.855 Standby Trust Fund
- Section 37.860 Substitution of Financial Assurance Mechanisms by Owner or Operator
- Section 37.865 Cancellation or Non-Renewal by a Provider of Financial Assurance
- Section 37.867 Duty to Empty Tanks After Termination of Financial Assurance
- Section 37.870 Reporting, Registration, and Certification
- Section 37.875 Financial Assurance Recordkeeping
- Section 37.880 Drawing on Financial Assurance Mechanisms
- Section 37.885 Release from the Requirements
- Section 37.890 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance
- Section 37.895 Replenishment of Guarantees, Letters of Credit or Surety Bonds

2. Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks; effective May 31, 2018:

Subchapter A. General Provisions:

- Section 334.1 "Purpose and Applicability"
- Section 334.2 "Definitions" (except as they apply to aboveground storage tanks (ASTs))
- Section 334.3 "Exemptions for Underground Storage Tanks (USTs) and UST Systems"

Section 334.4 "Exclusions for Underground Storage Tanks (USTs) and UST Systems"

Section 334.5 "General Prohibitions for Underground Storage Tanks (USTs) and UST Systems"

Section 334.6 "Construction Notification for Underground Storage Tanks (USTs) and UST Systems"

Section 334.7 "Registration for Underground Storage Tanks (USTs) and UST Systems"

Section 334.8 "Certification for Underground Storage Tanks (USTs) and UST Systems"

Section 334.10 "Reporting and Recordkeeping"

Section 334.12 "Other General Provisions"

Section 334.15 "Limits on Liability of Lender" (except as it applies to aboveground storage tanks (ASTs))

Section 334.16 "Limits on Liability of Corporate Fiduciary"

Section 334.18 "Limits on Liability of Taxing Unit" (except as it applies to aboveground storage tanks (ASTs))

Subchapter C. Technical Standards:

- Section 334.41 "Applicability"
- Section 334.42 "General Standards"
- Section 334.43 "Variances and Alternative Procedures"
- Section 334.44 "Implementation Schedules"
- Section 334.45 "Technical Standards for New Underground Storage Tank Systems"
- Section 334.46 "Installation Standards for New Underground Storage Tank Systems"
- Section 334.47 "Technical Standards for Existing Underground Storage Tank Systems"
- Section 334.48 "General Operating and Management Requirements"
- Section 334.49 "Corrosion Protection"
- Section 334.50 "Release Detection"
- Section 334.51 "Spill and Overfill Prevention and Control"
- Section 334.52 "Underground Storage Tank System Repairs and Relining"
- Section 334.53 "Reuse of Used Tanks"
- Section 334.54 "Temporary Removal from Service"
- Section 334.55 "Permanent Removal from Service"
- Section 334.56 "Change to Exempt or Excluded Status"

Subchapter D. Release Reporting and Corrective Action:

- Section 334.71 "Applicability and Deadlines"
- Section 334.72 "Reporting of Suspected Releases"
- Section 334.73 "Investigation Due to Off-Site Impacts"
- Section 334.74 "Release Investigation and Confirmation Steps"

- Section 334.75 “Reporting and Cleanup of Surface Spills and Overfills”
- Section 334.76 “Initial Response to Releases”
- Section 334.77 “Initial Abatement Measures and Site Check”
- Section 334.78 “Site Assessment”
- Section 334.79 “Removal of Non-Aqueous Phase Liquids (NAPLs)”
- Section 334.80 “Investigation of Soil and Groundwater Cleanup”
- Section 334.81 “Corrective Action Plan”
- Section 334.84 “Corrective Action by the Agency”
- Section 334.85 “Management of Wastes”
- Subchapter J. Leaking Petroleum Storage Tank Corrective Action Specialist Registration and Project Manager Licensing:
- Section 334.451 “Applicability of Subchapter J”
- Section 334.454 “Exception for Emergency Abatement Actions”
- Section 334.455 “Notice to Owner or Operator”
- Subchapter N. Operator Training:
- Section 334.601 “Purpose and Applicability”
- Section 334.602 “Designation and Training of Classes of Operators”
- Section 334.603 “Acceptable Operator Training and Certification Processes”
- Section 334.604 “Operator Training Deadlines”
- Section 334.605 “Operator Training Frequency”
- Section 334.606 “Documentation of Operator Training”

(b) Copies of the Texas UST regulations that are incorporated by reference are available from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1-888-728-7677; website: <http://legalsolutions.thomsonreuters.com>; or the Texas Secretary of State office website at [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334).

Utah

- (a) The statutory provisions include: Utah Code, *Title 19: “Environmental Quality Code,”* Chapter 1, “General Provisions, Part 2, Powers,” (May 8, 1991) and Chapter 6, “Hazardous Substances, Part 4, Underground Storage Tank Act” (May 8, 2018):
- Section 19–1–203, Representatives of department authorized to enter regulated premises.
- Section 19–6–402, Definitions, except (3), (4), (8), (9), (11), (14), (15), (20), (23) and (26).
- Section 19–6–402.5, Retroactive effect.
- Section 19–6–403, Powers and duties of board, except (1)(a)(i), (1)(a)(vi) and (1)(a)(vii).
- Section 19–6–404, Powers and duties of director, except 2(c), 2(f), 2(j) and 2(m).

Section 19–6–407, Underground storage tank registration—Change of ownership or operation—civil penalty, except (2) and (3).

Section 19–6–413, Tank tightness test—Action required after testing.

Section 19–6–420 Abatement actions—Corrective actions, except (1) through (3)(b), (4)(a), (5)(b) and (c), (6), and 9(b).

(b) Administrative Rules of the State of Utah, Title 311 Environmental Quality, Environmental Response and Remediation, Utah Administrative Code (April 1, 2018):

(1) Section R311–200–1, Underground Storage Tanks: Definitions, except (b)(2), (b)(5), (b)(6), (b)(7), (b)(10), (b)(11), (b)(12), (b)(13), (b)(20), (b)(22), (b)(28), (b)(34), (b)(38), (b)(44), (b)(45), (b)(49), (b)(51), (b)(55), (b)(56), (b)(58), and (b)(59).

Section R311–201–1, Underground Storage Tanks: Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–201–12, Underground Storage Tanks: Certification Programs and UST Operator Training, UST Operator Training and Registration, except (d)(2) and (f).

Section R311–202–1, Federal Underground Storage Tank Regulations, Incorporation by reference, except (a), (b), (c), and (d).

Section R311–203–1, Underground Storage Tanks: Technical Standards, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–203–2, Notification.

Section R311–203–3, New installations, permits, except (b), (c), and (g).

Section R311–203–5, UST testing requirements.

Section R311–203–6, Secondary containment and under-dispenser containment.

Section R311–203–7, Operator inspections.

Section R311–203–8, Unattended facilities.

Section R311–204–1, Underground Storage Tanks: Closure and Remediation, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–204–2, Underground Storage Tank Closure Plan.

Section R311–204–3, Disposal.

Section R311–204–4, Closure notice.

Section R311–205–1, Underground Storage Tanks: Site Assessment Protocol, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–205–2, Site assessment protocol.

Section R311–206–1, Underground Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms, Definitions, except those definitions listed as excepted under R311–200–1.

Section R311–206–2, Declaration of financial assurance mechanisms, except (a)(1), (b), and (c).

Section R311–206–3, Requirements for issuance of certificates of compliance, except (7) and (8).

Section R311-206-5, Requirements for owners and operators demonstrating financial assurance by other methods, except (b) and (b)(2).

Section R311-206-8, Delivery prohibition, except (a)(1)–(4) and (f)(1)(A).

(c) Copies of the Utah regulations that are incorporated by reference are available from the Utah's Office of Administrative Rules, Office Coordinator, P.O. Box 141007, Salt Lake City, UT 84114-1007; Phone number: 801-538-3003; website: <https://rules.utah.gov/publications/utah-adm-code/>.

Vermont

(a) The statutory provisions include:

1. Title 10 Vermont Statutes Annotated, Chapter 59, Underground and Aboveground Liquid Storage Tanks

Section 1921. Purpose; Section 1922. Definitions; Section 1923. Notice of new or existing underground storage tanks; Section 1924. Integrity report; Section 1926. Unused and abandoned tanks; Section 1927. Regulation of category one tanks, except (a) and (d); Section 1928. Regulation of farm and residential large motor fuel tanks; Section 1930. Implementation; coordination, except (b) and (c).

2. Title 10 Vermont Statutes Annotated, Chapter 159, Waste Management

Section 6602. Definitions, 6602(1), (6), (16)(A)(i), (ii) and (iv), (17), (23), (34); Section 6615. Liability, 6615(g); Section 6615a. Diligent and appropriate investigation for hazardous materials; Section 6615b. Corrective action procedures; Section 6616. Release prohibition; Section 6617. Person responsible for release; notice to Agency.

(b) The regulatory provisions include:

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.

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40 CFR Ch. I (7–1–24 Edition)

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.

Virginia

(a) The statutory provisions include:

(1) Code of Virginia, Title 62.1, Chapter 3.1: State Water Control Law.

Article 9: Storage Tanks

Section 62.1–44.34:8 Definitions, except “Regulated substance” insofar as the term includes substances not regulated under the federal program

Section 62.1–44.34:9 Powers and duties of Board

Article 10: Petroleum Storage Tank Fund

Section 62.1–44.34:10 Definitions, except “Regulated substance” insofar as the term includes substances not regulated under the federal program

Section 62.1–44.34:11 Virginia Petroleum Storage Tank Fund

Section 62.1–44.34:12 Financial Responsibility

(b) The regulatory provisions include:

(1) Virginia Administrative Code, Title 9, Agency 25: State Water Control Board, Chapter 580: Underground Storage Tanks: Technical Standards and Corrective Action Requirements.

Part I: Definitions, Applicability, and Installation Requirements for Partially Excluded UST Systems

9 VAC 25–580–10 Definitions, except the terms “Delivery prohibition,” “Delivery prohibition tag,” and “Regulated substance” insofar as the term includes substances not regulated under the federal program

9 VAC 25–580–20 Applicability

9 VAC 25–580–30 Installation requirements for partially excluded UST systems

Part II: UST Systems: Design, Construction, Installation, and Notification

9 VAC 25–580–50 Performance standards for new UST systems, except USBC permitting and inspection requirements at –50.4 and –50.5

9 VAC 25–580–60 Upgrading of existing UST systems, except USBC permitting and inspection requirements

9 VAC 25–580–70 Notification requirements

Part III: General Operating Requirements

9 VAC 25–580–80 Spill and overfill control

9 VAC 25–580–82 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment

9 VAC 25–580–85 Periodic operation and maintenance walkthrough inspections

9 VAC 25–580–90 Operation and maintenance of corrosion protection

9 VAC 25–580–100 Compatibility

9 VAC 25–580–110 Repairs allowed, except USBC permitting and inspection requirements

9 VAC 25–580–120 Reporting and record-keeping

9 VAC 25–580–125 Operator training

Part IV: Release Detection

9 VAC 25–580–130 General requirements for all petroleum and hazardous substance UST systems

9 VAC 25–580–140 Requirements for petroleum UST systems

9 VAC 25–580–150 Requirements for hazardous substance UST systems

9 VAC 25–580–160 Methods of release detection for tanks, except USBC permitting and inspection requirements

9 VAC 25–580–170 Methods of release detection for piping, except USBC permitting and inspection requirements

9 VAC 25–580–180 Release detection record-keeping

Part V: Release Reporting, Investigation, and Confirmation

9 VAC 25–580–190 Reporting of suspected releases

9 VAC 25–580–200 Investigation due to off-site impacts

9 VAC 25–580–210 Release investigation and confirmation steps

9 VAC 25–580–220 Reporting and cleanup of spills and overfills

Part VI: Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

9 VAC 25–580–230 General

9 VAC 25–580–240 Initial response

9 VAC 25–580–250 Initial abatement measures and site check

9 VAC 25–580–260 Site characterization

9 VAC 25–580–270 Free product removal

9 VAC 25–580–280 Corrective action plan

9 VAC 25–580–300 Public participation

Part VII: Out-of-Service UST Systems and Closure

9 VAC 25–580–310 Temporary closure, except USBC permitting and inspection requirements

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- 9 VAC 25-580-320 Permanent closure and changes-in-service, except USBC permitting and inspection requirements
- 9 VAC 25-580-330 Assessing the site at closure or change-in-service
- 9 VAC 25-580-340 Applicability to previously closed UST systems
- 9 VAC 25-580-350 Closure records

Part VIII: Delegation

- 9 VAC 25-580-360 Delegation of authority

Part X: UST Systems With Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

- 9 VAC 25-580-380 General requirements, except USBC permitting and inspection requirements
- 9 VAC 25-580-390 Additions, exceptions, and alternatives for UST systems with field constructed tanks and airport hydrant systems, except USBC permitting and inspection requirements

Forms (9VAC25-580)

(2) Virginia Administrative Code, Title 9, Agency 25: State Water Control Board, Chapter 590: Petroleum Underground Storage Tank Financial Responsibility Requirements

- 9 VAC 25-590-10 Definitions
- 9 VAC 25-590-15 Applicability of incorporated references based on the dates that they became effective
- 9 VAC 25-590-20 Applicability
- 9 VAC 25-590-30 Compliance dates
- 9 VAC 25-590-40 Amount and scope of financial responsibility requirement
- 9 VAC 25-590-50 Allowable mechanisms and combinations of mechanisms
- 9 VAC 25-590-60 Financial test of self-insurance
- 9 VAC 25-590-70 Guarantee
- 9 VAC 25-590-80 Insurance and group self-insurance pool coverage
- 9 VAC 25-590-90 Surety bond
- 9 VAC 25-590-100 Letter of credit
- 9 VAC 25-590-105 Certificate of deposit
- 9 VAC 25-590-110 Trust fund
- 9 VAC 25-590-130 Substitution of financial assurance mechanisms by owner or operator
- 9 VAC 25-590-140 Cancellation or non-renewal by a provider of financial assurance
- 9 VAC 25-590-150 Reporting by owner or operator
- 9 VAC 25-590-160 Recordkeeping
- 9 VAC 25-590-170 Drawing on financial assurance mechanism
- 9 VAC 25-590-180 Release from the requirements
- 9 VAC 25-590-190 Bankruptcy or other incapacity of owner, operator or provider of financial assurance

- 9 VAC 25-590-200 Replenishment of guarantees, letters of credit, certificates of deposit, or surety bonds
- 9 VAC 25-590-210 Virginia Petroleum Storage Tank Fund
- 9 VAC 25-590-220 Notices to the State Water Control Board
- 9 VAC 25-590-230 Delegation of authority
- 9 VAC 25-590-240 Lender liability
- 9 VAC 25-590-250 Local government financial responsibility demonstration
- 9 VAC 25-590-260 Modifications to language incorporated by reference
- Appendix I: Letter from Chief Financial Officer
- Appendix II: Guarantee
- Appendix III: Endorsement
- Appendix IV: Certificate of Insurance
- Appendix V: Payment and Performance Bond
- Appendix VI: Irrevocable Standby Letter of Credit
- Appendix VII: Trust Agreement
- Appendix VIII: Certification of Acknowledgment
- Appendix IX: Certification of Financial Responsibility
- Appendix X: Certification of a Valid Claim
- Appendix XI: Letter from Chief Financial Officer (Short Form)
- Appendix XII: Certificate of Group Self-Insurance Pool Membership
- Appendix XIII: Assignment of Certificate of Deposit

Washington

(a) The statutory provisions include:

(1) Chapter 70A.355 RCW, "Underground Storage Tanks": Sections 70A.355.010, "Definitions"; 70A.355.020, "Department's Powers and Duties—Rule-Making Authority"; Subsections 020(1), 020(2), 020(3); 70A.355.030, "Environmentally Sensitive Areas"; 70A.355.090, "Underground storage tank account"; 70A.355.100, "Preemption"; 70A.355.900, "Captions not law"; 70A.355.901 "Severability—1989 c 346"; and 70A.355.902, "Effective Date—1989 c 346".

(b) The regulatory provisions include:

(1) Washington Administrative Code, Chapter 173-360A:

- 173-360A-0100 Purpose of chapter
- 173-360A-0110 Applicability of chapter
- 173-360A-0120 Preemption of local programs
- 173-360A-0130 Approval of more stringent local requirements
- 173-360A-0150 Definitions, except subsections -150(24), -150(54), and -150(56)
- 173-360A-0190 Severability
- 173-360A-0230 Reporting requirements, except subsections -0230(1), (7), (8) and (9)
- 173-360A-0240 Recordkeeping requirements, except subsection -0240(5)
- 173-360A-0260 Information sharing
- 173-360A-0300 Installation of UST systems and components
- 173-360A-0310 Performance standards for new UST systems and components

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- 173-360A-0320 Upgrade requirements for existing UST systems
- 173-360A-0330 Upgrade requirements for previously deferred UST systems
- 173-360A-0340 Performance standards for partially exempt UST systems
- 173-360A-0350 Compatibility requirements for UST systems
- 173-360A-0400 Transfer of regulated substances—Owners and operators
- 173-360A-0405 Transfer of regulated substances—Product deliverers and waste oil collectors
- 173-360A-0410 Change in regulated substances
- 173-360A-0420 Operation and maintenance walkthrough inspections
- 173-360A-0430 Operation and maintenance corrosion protection
- 173-360A-0440 Operation and maintenance internal linings
- 173-360A-0450 Operation and maintenance of containment sumps used for interstitial monitoring of piping
- 173-360A-460 Operation and maintenance of spill prevention equipment
- 173-360A-0470 Operation and maintenance of overfill protection equipment
- 173-360A-0480 Operation and maintenance of release detection equipment
- 173-360A-0500 Purpose and applicability
- 173-360A-0510 Designation of Class A, Class B, and Class C operators
- 173-360A-0520 Timing of operator training
- 173-360A-0530 Requirements for operator training, except subsection -530(1)(b)(i)(A), 0530(1)(b)(i)(B), 0530(1)(b)(i)(C) and 0530(1)(b)(ii)
- 173-360A-0540 Retraining requirements for Class A and Class B operators
- 173-360A-0545 Operation and maintenance plans
- 173-360A-0550 Emergency response requirements
- 173-360A-0560 Documentation and record-keeping
- 173-360A-0600 General release detection requirements
- 173-360A-0610 Release detection requirements for tanks
- 173-360A-0615 Release detection requirements for piping
- 173-360A-0620 Inventory control
- 173-360A-0625 Weekly manual tank gauging
- 173-360A-0630 Automatic tank gauging
- 173-360A-0635 Tank tightness testing
- 173-360A-0640 Automatic line leak detectors
- 173-360A-0650 Line tightness testing
- 173-360A-0655 Interstitial monitoring
- 173-360A-0660 Vapor monitoring
- 173-360A-0665 Groundwater monitoring
- 173-360A-0670 Statistical inventory reconciliation
- 173-360A-0675 Other release detection methods
- 173-360A-0700 Reporting of suspected releases
- 173-360A-0710 Investigation due to off-facility impacts
- 173-360A-0720 Release investigation and confirmation steps
- 173-360A-0730 Site assessment requirements
- 173-360A-0740 Reporting and cleanup of spills and overfills, except subsection -0740(1)(a) insofar as not to include groundwater contamination
- 173-360A-0750 Reporting and cleanup of confirmed releases
- 173-360A-0800 Temporary closure of UST systems
- 173-360A-0810 Permanent closure of UST systems
- 173-360A-0820 Change-in-service of UST systems
- 173-360A-0830 Previously closed UST systems
- 173-360A-1000 Applicability
- 173-360A-1005 Definition of terms
- 173-360A-1010 Period of financial responsibility
- 173-360A-1015 Scope and amount of financial responsibility
- 173-360A-1020 Allowable mechanisms and combination of mechanisms
- 173-360A-1025 Substitution of mechanisms by owners or operators
- 173-360A-1030 Termination of mechanisms by providers
- 173-360A-1035 Responsibilities upon bankruptcy or other incapacity of owner or operator or provider of financial assurance
- 173-360A-1040 Recordkeeping by owner and operators
- 173-360A-1045 Reporting by owners and operators
- 173-360A-1050 Use of standby trusts
- 173-360A-1055 Use of local government guarantees without standby trusts
- 173-360A-1060 Mechanism—Financial test of self-insurance
- 173-360A-1061 Mechanism—Guarantee
- 173-360A-1062 Mechanism—Insurance and risk retention group coverage
- 173-360A-1063 Mechanism—Surety bond
- 173-360A-1064 Mechanism—Letter of credit
- 173-360A-1065 Mechanism—Trust fund
- 173-360A-1066 Mechanism—Standby trust fund
- 173-360A-1070 Mechanism—Local government bond rating test
- 173-360A-1071 Mechanism—Local government financial test
- 173-360A-1072 Mechanism—Local government guarantee
- 173-360A-1073 Mechanism—Local government fund
- 173-360A-1080 Appendix A—Letter from chief financial officer
- 173-360A-1081 Appendix B—Guarantee
- 173-360A-1082 Appendix C—Endorsement
- 173-360A-1083 Appendix D—Certificate of insurance
- 173-360A-1084 Appendix E—Performance bond
- 173-360A-1085 Appendix F—Irrevocable standby letter of credit
- 173-360A-1086 Appendix G—Trust agreement

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- 173-360A-1087 Appendix H—Certification of acknowledgement
- 173-360A-1088 Appendix I—Local government bond rating test—Letter from chief financial officer of general purpose local governments
- 173-360A-1089 Appendix J—Local government bond rating test—Letter from chief financial officer of nongeneral purpose local governments
- 173-360A-1090 Appendix K—Local government financial test—Letter from chief financial officer
- 173-360A-1091 Appendix L—Local government guarantee with standby trust made by a state
- 173-360A-1092 Appendix M—Local government guarantee with standby trust made by a local government
- 173-360A-1093 Appendix N—Local government guarantee without standby trust made by a state
- 173-360A-1094 Appendix O—Local government guarantee without standby trust made by a local government
- 173-360A-1095 Appendix P—Local government fund—Letter from chief financial officer
- 173-360A-1096 Appendix Q—Certification of financial responsibility
- 173-360A-1097 Appendix R—Certification of valid claim
- (2) Washington Administrative Code, Chapter 173-340, “Model Toxics Control Act Cleanup Regulation”:
- 173-340-450 Releases from underground storage tanks
- 173-340-600 Public notice and participation

West Virginia

- (a) The statutory provisions include:
- (1) Code of West Virginia, Chapter 22, Article 17: Underground Storage Tank Act
- Section 22-17-1 Short title
- Section 22-17-2 Declaration of policy and purpose
- Section 22-17-3 Definitions
- Section 22-17-4 Designation of division of environmental protection as the state underground storage tank program lead agency
- Section 22-17-6 Promulgation of rules and standards by director, except § 22-17-6.(b)(12) (except as to installation) and (b)(13)
- Section 22-17-8 Notification requirements
- Section 22-17-9 Registration requirements; undertaking activities without registration
- Section 22-17-10 Financial responsibility
- Section 22-17-11 Performance standards for new underground storage tanks
- Section 22-17-12 Confidentiality, except § 22-17-12.(b)
- Section 22-17-14 Corrective action for underground petroleum storage tanks

Section 22-17-22 Underground storage tank insurance fund

(b) The regulatory provisions include:

(1) West Virginia Code of State Regulations, Title 33: Waste Management Rule, Series 30: Underground Storage Tanks

Section 33-30-1 General

Section 33-30-2 Adoption of Federal Regulations

Section 33-30-3 Certification Requirements for Individuals Who Install, Repair, Retrofit, Upgrade, Perform Change-in-Service, Close or Tightness Test Underground Storage Tank Systems or Install, Repair, Upgrade or Test Corrosion Protection on Underground Storage Tank Systems (as to Individuals Who Install)

Section 33-30-4 Notification Requirements

Notification for Underground Storage Tanks, revised 2/2018

[58 FR 58625, Nov. 2, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting appendix A to part 282, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

EFFECTIVE DATE NOTES: 1. At 89 FR 42396, May 15, 2024, appendix A to part 282 was amended by revising the entry for “South Dakota”, effective July 15, 2024.

2. At 89 FR 43328, May 17, 2024, appendix A to part 282 was amended by adding in alphabetical order the entry “Missouri”, effective July 16, 2024.

For the convenience of the user, the added text is set forth as follows:

APPENDIX A TO PART 282—STATE REQUIREMENTS INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

* * * * *

MISSOURI

(a) The statutory provisions include:

None.

(b) The regulatory provisions include:

Rules of Department of Natural Resources, Division 2—Petroleum and Hazardous Substance Storage Tanks, Chapter 2—Underground Storage Tanks—Technical Regulations, *except for*:

10 CSR 26-2.020, 1, (A) and (B) language that removed some federally allowed exceptions to corrosion protection making them more stringent.

10 CSR 26-2.020 (B) and 10 CSR-2.021, (4) language that makes a number of stipulations requiring corrosion protection for all metal coming in contact with any “electrolyte” making them more stringent.

10 CSR 26-2.020 (A), (A).5, (B), (B).3, (B).5 and (C).1.B.(III).(c) language that stipulates

a compliance date for new underground storage tank system performance standards of July 1, 2017 which would be earlier than Federal regulatory requirement making them more stringent.

10 CSR 26-2.022 language that stipulates fewer options than Federal regulations for certification of installation making them more stringent.

10 CSR 26-2.020 (C).B.(II) language that stipulates more restrictive thresholds (volumetric and timing) for overfill devices and alarms than Federal regulations making them more stringent.

10 CSR 26-2.020 (C).B.(III) language that stipulates more prescriptive uses of ball float valves making them more stringent.

10 CSR 26-2.020 (C).B.(IV) language that stipulates more prescriptive regulations regarding compatibility and approval of overfill devices utilized for pressurized delivery systems making them more stringent.

10 CSR 26-2.030 (9) language that stipulates fewer acceptable standards and practices for spill and overfill prevention making them more stringent.

10 CSR 26-2.031 (B), (C) and (D) language that added operation and maintenance of corrosion protection reporting (performance logs, testing reports) and action (what to do if tests fail, cathodic protection found off or not working) criteria that is more specific than Federal regulations making them more stringent.

10 CSR 26-2.034 (1).B.3 language that stipulates documents demonstrating compatibility of all UST systems, including tanks, piping, release detection equipment and “all other ancillary equipment” with the regulated substance being stored are required. This is more expansive and stringent than Federal regulation.

10 CSR 26-2.033, (2).A.1 language that stipulates a more restricted list of allowable standards and practices for repairs allowed than Federal regulations making them more stringent.

10 CSR 26-2.033, (2).C) language that stipulates when repairing cathodically protected metal piping that released a regulated substance, the entire length of electrically continuous pipe must be replaced. This is more expansive and stringent than Federal regulations.

10 CSR 26-2.033, (2).D) language that stipulates repairs must be done by a person registered with the Missouri Department of Agriculture and who has a financial responsibility mechanism. This is more expansive and stringent than Federal regulations.

10 CSR 26-2.035, (1) and (2) language that stipulates the testing of all containment sumps. This is more expansive and stringent than Federal regulations.

10 CSR 26-2.036, (1), (C), 1 language that requires an immediate walkthrough inspection for new underground storage tank installs

and no lessening in frequency of walkthrough inspections if deliveries are received less than every thirty days. This is more stringent than Federal regulations.

10 CSR 26-2.041, (1), (A), 4 and 5 language that does not allow groundwater or vapor monitoring for release detection after July 1, 2020; except where vapor monitoring is accompanied by a tracer chemical. This is more stringent than Federal regulations.

10 CSR 26-2.043, (1), (H). language that stipulates interstitial monitoring can only be performed with a double-walled tank; not with systems with secondary barriers or internal linings. This is more stringent than Federal regulations.

10 CSR 26-2.071, (1) language that stipulates only 24 hours for completion of initial release response action. There is no flexibility on the timing. This is more stringent than Federal regulations.

10 CSR 26-2.072, (2) language that stipulates only 20 days for completion of initial abatement actions. There is no flexibility on the timing. This is more stringent than Federal regulations.

10 CSR 26-2.074, (2) language that stipulates only 45 days for completion of site characterization actions. There is no flexibility on the timing. This is more stringent than Federal regulations.

10 CSR 26-2.012, (1), O, 4 language that does not allow temporary underground storage tank closures with product in the tank. This is more stringent than Federal regulations.

10 CSR 26-2.060, (4) language that requires permanent closure after 5 years of out of service or out of use status. This is more stringent than Federal regulations.

10 CSR 26-2.060, (5), (6) and (7) language that stipulates prescriptive requirements for bringing an out of service or out of use underground storage tank back into service or use. This is more stringent than Federal regulations.

10 CSR 26-2.060, (9) language that stipulates a notification requirement for out of service or out of use underground storage tank status changes. This is more stringent than Federal regulations.

10 CSR 26-2.062 language that stipulates leak detection equipment/methods cannot be used to meet the assessing the site at closure or change in service requirements. A written procedure for sampling and testing must be followed. This is more stringent than Federal regulations.

10 CSR 26-2.012, (1), (C), 7 language that stipulates a “corrosion expert” is limited to those with a National Association of Corrosion Engineers International certification. This is more stringent than Federal regulations.

10 CSR 26-2.012, (1), (R), 5, B language that stipulates a definition of “replaced” as it pertains to piping that includes the language

“or single compartment” that addresses specific situations involving compartmentalized underground storage tanks. This is more stringent than Federal regulations.

10 CSR 26-2.012, (1), (S), 3 language that stipulates a definition of “septic tank” that includes the language “and constructed”. This is more stringent than Federal regulations.

Rules of Department of Natural Resources, Division 26—Petroleum and Hazardous Substance Storage Tanks, Chapter 3—Underground Storage Tanks—Financial Responsibility

Rules of Department of Natural Resources, Division 100—Petroleum Storage Tank Insurance Fund Board of Trustees, Chapter 6—UST Operator Training

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SOUTH DAKOTA

(a) The statutory provisions include:

(1) *South Dakota Codified Laws (2021), Title 34A Environmental Protection, Chapter 2 Water Pollution Control: Section 98 Underground Storage Tanks: section 34A-2-98(5) Definition “underground storage tank.”*

(2) [Reserved]

(b) The regulatory provisions include:

(1) *Administrative Rules of South Dakota (April 19, 2021), Title 74 Department of Agriculture and Natural Resources, Article 56 Storage facilities—remediation:*

Chapter 74:56:01 Underground Storage Tanks:

Sections 74:56:01:01 Definitions; 74:56:01:02 Underground storage tank defined; 74:56:01:03 Applicability; 74:56:01:04 Performance standards for new UST systems—General requirements; 74:56:01:05 Performance standards for new UST systems—Tanks; 74:56:01:06 Performance standards for new UST systems—Piping; 74:56:01:07 Performance standards for new UST systems—Spill and overflow protection; 74:56:01:08 Performance standards for new UST systems—Installation requirements and submission of proof of compliance with requirements; 74:56:01:09 Upgrading of existing UST systems—General requirements and deadlines; 74:56:01:10 Upgrading of existing USTs—Specific requirements; 74:56:01:10.01 Replacement of existing UST systems—Tanks; 74:56:01:10.02 Replacement of existing UST systems—Piping; 74:56:01:10.03 Installation of under-dispenser sumps; 74:56:01:11 Notification requirements for UST systems; 74:56:01:12 Completion of certification of compliance form for UST systems; 74:56:01:13 Spill and overflow control; 74:56:01:14 Operation and maintenance of cathodic protection; 74:56:01:15 Operation and maintenance of cathodic protection—Criteria for taking tests; 74:56:01:16 Operation and maintenance of cathodic protection—Recordkeeping; 74:56:01:17 Compatibility; 74:56:01:18 Repairs allowed—General requirements; 74:56:01:19

Repairs allowed—Lining; 74:56:01:20 Repairs allowed—Fiberglass-reinforced plastic tank systems; 74:56:01:21 Repairs allowed—Piping; 74:56:01:22 Repairs allowed—Recordkeeping; 74:56:01:23 Maintenance and availability of records; 74:56:01:23.01 Periodic testing of spill prevention equipment and containment sumps—General requirements; 74:56:01:23.02 Periodic operation and maintenance walkthrough inspections; 74:56:01:24 Release detection for all UST systems—General requirements and deadlines; 74:56:01:25 Release detection requirements for regulated substance UST systems—Excluding hazardous substances; 74:56:01:26 Release detection requirements—Tank tightness testing and inventory reconciliation; 74:56:01:27 Release detection requirements—Vapor monitoring; 74:56:01:28 Release detection requirements—Groundwater monitoring; 74:56:01:29 Release detection requirements—Automatic tank monitoring; 74:56:01:30 Release detection requirements—Secondary containment with interstitial monitoring; 74:56:01:31 Release detection requirements—Manual tank monitoring; 74:56:01:32 Release detection requirements—Hazardous substance UST systems; 74:56:01:33 Release detection requirements—Other; 74:56:01:34 Release detection requirements for pressure piping; 74:56:01:35 Release detection requirements for suction piping; 74:56:01:36 Release detection requirements for piping—Regulated hazardous substances; 74:56:01:38 Recordkeeping; 74:56:01:38.01 Training of owners and operators; 74:56:01:40 Reporting of suspected releases; 74:56:01:41 Reporting of spills and overfills; 74:56:01:42 Release investigation and confirmation; 74:56:01:43 Off-site impacts and source investigation; 74:56:01:44 General requirements for corrective action for releases from UST systems; 74:56:01:45 Initial abatement requirements and procedures for releases from UST systems; 74:56:01:46 Additional abatement requirements for hazardous substances; 74:56:01:47 Free product removal; 74:56:01:48 Additional site investigation for releases from UST systems; 74:56:01:49 Soil and groundwater cleanup for releases from UST systems; 74:56:01:51 Reporting of hazardous substance releases from UST systems; 74:56:01:52 Temporary removal from use; 74:56:01:53 Temporary closure; 74:56:01:54 Permanent closure; 74:56:01:55 Postclosure requirements; and 74:56:01:57 Field constructed tanks/airport hydrant systems.

Chapter 74:56:02 Financial responsibility:

Sections 74:56:02:01 Applicability; 74:56:02:02 Definitions; and 74:56:02:03 Financial responsibility and lender liability rules.

(2) [Reserved]

(c) Copies of the South Dakota statutes and regulations that are incorporated by reference are available from the South Dakota Legislative Research Council, 3rd Floor, State Capitol, 500 East Capitol Avenue,

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Pierre, South Dakota 57501-5070; Phone number: 605-773-3251; email: LRC@sdlegislature.gov; website: <https://sdlegislature.gov>.

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APPENDIX B TO PART 282—STATE REQUIREMENTS NOT INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

The EPA evaluated the following statutes and regulations that are part of the approved program but are not being incorporated by reference for enforcement purposes and do not replace Federal authorities.

Washington

(a) The statutory provisions include:

(1) RCW 70A.355, “Underground Storage Tanks,” Sections 70A.355.005, 020(5), 020(6), 040(2), 050, 060, and 070.

(2) RCW 43.21B, “Environmental Land Use & Hearing Office—Pollution Control Hearings Board” insofar as the provisions and procedures serve to implement the underground storage tank program.

(b) The regulatory provisions, insofar as these sections identify specific authorities for the implementation, compliance monitoring and enforcement of the underground storage tank program, include:

(1) WAC 173-360A (July 18, 2018), “Underground Storage Tank Regulations,” Sections:

173-360A-0140, “Intergovernmental agreements”

173-360A-0150(24), “Facility compliance tags”

173-360A-0150(54), “Product deliverer”

173-360A-0150(56), “Red tag”

173-360A-0220, “Facility compliance tags”

173-360A-0250, “Compliance monitoring, investigation, and access”

173-360A-0270, “Enforcement”

173-360A-0280, “Delivery Prohibition”

173-360A-0290, “Civil penalties”

(2) WAC 371-08-485(2) and (3), “Practice and Procedure.”

(3) Washington Superior Court Civil Rule 24(a)(2).

[86 FR 57763, Oct. 19, 2021]

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APPENDIX C TO PART 282—OTHER STATE PROVISIONS NOT INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

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. These provisions are not federally enforceable.

Washington

(a) The statutory provisions include:

(1) RCW 70A.355, “Underground Storage Tanks”: Sections 020(4), 020(7), 020(8), 040(1), 040(3) and 080.

(2) RCW 70A.305, “Hazardous Waste Cleanup—Model Toxics Control Act” insofar as the provisions and procedures serve to implement the underground storage tank program.

(3) RCW 70A.325, “Underground Petroleum Tanks” insofar as the provisions and procedures serve to implement the underground storage tank program.

(4) RCW 70A.330, “Petroleum Storage Tank Systems Pollution Liability Protection Act” insofar as the provisions and procedures serve to implement the underground storage tank program.

(5) RCW 70A.345, “Underground Storage Tank Revolving Loan and Grant Program” insofar as the provisions and procedures serve to implement the underground storage tank program.

(6) RCW 82.23A, “Petroleum Products—Underground Storage Tank Program Funding” insofar as the provisions and procedures serve to implement the underground storage tank program.

(b) The regulatory provisions include:

(1) WAC 173-360A (July 18, 2018), “Underground Storage Tank Regulations,” Sections 0200, 0210, 0230(1), (7) and (8), 0240(5), 0530(1)(i)(A), 0530(1)(b)(i)(B), 0530(1)(b)(i)(C) and 0530(1)(b)(ii), 0740(1)(a), and 0900 through 0940.

[86 FR 57763, Oct. 19, 2021]

PARTS 283-299 [RESERVED]