

(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

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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 165:27-94.

(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 Actio 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,