

- § 8-7-813 Registration
2. *Arkansas Code Annotated, Title 8, Chapter 7, Subchapter 9—Petroleum Storage Tank Trust Fund Act:*
- § 8-7-901 Title
- § 8-7-902 Definitions
- § 8-7-903 Rules and Regulations—
Powers of department [Except (c), which addresses aboveground storage tanks.]
- § 8-7-904 Advisory committee
- § 8-7-905 Petroleum Storage Tank Trust Fund
- § 8-7-906 Petroleum environmental assurance fee
- § 8-7-907 Payments for corrective action
- § 8-7-908 Third-party claims
- § 8-7-909 Confidential treatment of information
- (b) The regulatory provisions include:
1. *Arkansas Department of Pollution Control and Ecology Regulation Number 12—Storage Tank Regulation:*
- a. Chapter 1: General Provisions
- Section 1: Purpose
- Section 2: Authority
- Section 3: Short Title
- b. Chapter 2: Regulations Promulgated Under Acts 172 and 173 of 1989 and Act 65 of the Third Extraordinary Session of 1989 for Administration of the State Regulated Storage Tank Program
- Section 1: Incorporation of Federal Regulations
- Section 2: Arkansas Petroleum Storage Tank Trust Fund Act
- Section 3: Definitions
- c. Chapter 3: Fees
- Section 1: Underground and Aboveground Storage Tank Registration Fees [Except insofar as it applies to aboveground storage tanks.]
- Section 2: Underground Storage Tank Licensing Fees
- Section 3: Late Payment Penalties
- Section 4: Refusal or Failure to Pay Fees
- d. Chapter 4: Petroleum Storage Tank Trust Fund Release Reimbursement
- Section 1: Purpose
- Section 2: Amount of Reimbursement
- Section 3: Initial Fund Eligibility
- Section 4: Loss and Restoration of Initial Fund Eligibility
- Section 5: Corrective Action Reimbursement Procedure
- Section 6: Reimbursement Application Review
- Section 7: Allowable Costs
- Section 8: Reasonable Costs
- Section 9: Audits
- Section 10: Deductible
- Section 11: Third Party Claim Reimbursement Procedure
- Section 12: Compliance
- Section 13: Fund Availability
- Section 14: Cost Recovery
- e. Chapter 7: Confidentiality
- Section 1: Confidentiality Requests
- Section 2: Responsibility
- Section 3: Submission Procedure
- Section 4: Requirements for Protection
- Section 5: Acceptability of Information
- Section 6: Security
- f. Chapter 9: Severability
- g. Chapter 10: Effective Date

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BILLING CODE 6560-50-P

40 CFR Part 282

[FRL-5304-2]

Underground Storage Tank Program: Approved State Program for New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of New Mexico's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

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

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

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

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state

underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to New Mexico on August 21, 1990 (55 FR 38064). Approval was effective on November 16, 1990.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the New Mexico underground storage tank program. This codification reflects the state program in effect at the time EPA granted New Mexico approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the New Mexico program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved New Mexico program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in New Mexico, the status of federally approved requirements of the New Mexico program will be readily discernible. Only those provisions of the New Mexico underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of New Mexico's underground storage tank program, EPA has added section 282.81 to title 40 of the CFR. Section 282.81 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.81 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal

procedures rather than the state authorized analogs to these provisions. Therefore, the approved New Mexico enforcement authorities will not be incorporated by reference. Section 282.81 lists those approved New Mexico authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.81 of the codification simply lists for reference and clarity the New Mexico statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (55 FR 38064, August 21, 1990) to approve the New Mexico underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

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

Paperwork Reduction Act

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

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State

program approval, Underground storage tanks, Water pollution control.

Dated: October 20, 1995.

A. Stanley Meiburg,
Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

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

Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.81 to read as follows:

§ 282.81 New Mexico State-Administered Program.

(a) 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 Environmental Improvement Board, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the New Mexico program on August 21, 1990 and it was effective on November 16, 1990.

(b) New Mexico 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, 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 section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If New Mexico 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) New Mexico has final approval for the following elements submitted to EPA in New Mexico's program application for final approval and approved by EPA on August 21, 1990. Copies may be obtained from the

Underground Storage Tank Program, New Mexico Environmental Improvement Board, 1190 St. Francis Drive, Santa Fe, NM 87503.

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

(B) New Mexico Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

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

(A) The statutory provisions include:

(1) *New Mexico Statutes 1978*

Annotated, Chapter 74, Environmental Improvement.

(i) Article 4: Hazardous Wastes.

74-4-4.2 Permits; Issuance; Denial; Modification; Suspension; Revocation

74-4-4.3 Entry; Availability of Records

74-4-10 Enforcement; Compliance Orders; Civil Penalties

74-4-11 Penalty; Criminal

74-4-12 Penalty; Civil

74-4-13 Imminent Hazards;

Authority of Director; Penalties

74-4-14 Administrative Actions;

Judicial Review

(ii) Article 6: Water Quality.

74-6-7 Administrative Action; Judicial Review

74-6-10 Penalties Enforcement;

Compliance Orders; Penalties;

Assurance of Discontinuance

74-6-10.1 Civil Penalties

74-6-10.2 Criminal Penalties

74-6-11 Emergency; Powers of Delegated Constituent Agencies; Penalties

(iii) Article 6B: Ground Water Protection.

74-6B-5 Department's Right of Entry and Inspection

(B) The regulatory provisions include:

(1) *State of New Mexico Environmental Improvement Board Underground Storage Tank Regulations.*

(i) Part X: Administrative Review.

§ 1000 Informal Review

§ 1001 Review By the Director on Written Memoranda

§ 1002 Public Participation

(2) *New Mexico Rules Governing Appeals From Compliance Orders Under the Hazardous Waste Act and the Solid Waste Act.*

- (i) Part I: General Provisions.
 - § 101 Authority
 - § 102 Scope of Rules; Applicability of Rules of Civil Procedure
 - § 103 Definitions
 - § 104 Use of Number and Gender
 - § 105 Powers and Duties of the Director, Hearing Officer, and Hearing Clerk
 - § 106 Computation and Extension of Time
 - § 107 Ex Parte Discussions
 - § 108 Examination of Documents Filed
 - § 109 Settlement; Consent Agreement
- (ii) Part II: Document Requirements.
 - § 201 Filing, Service, and Form of Documents
 - § 202 Filing and Service of Documents Issued by Hearing Officer
 - § 203 Compliance Order
 - § 204 Request for Hearing; Answer to Compliance Order
 - § 205 Notice of Docketing; Notice of Hearing Officer Assignment
 - § 206 Motions
- (iii) Part III: Prehearing Procedures and Discovery.
 - § 301 General Rules Regarding Discovery
 - § 302 Identity of Witnesses
 - § 303 Production of Documents
 - § 304 Request for Admissions
 - § 305 Subpoenas
 - § 306 Other Discovery
- (iv) Part IV: Hearing Procedures.
 - § 401 Scheduling the Hearing
 - § 402 Evidence
 - § 403 Objections and Offers of Proof
 - § 404 Burden of Presentation; Burden of Persuasion
- (v) Part V: Post-Hearing Procedures.
 - § 501 Filing the Transcript
 - § 502 Proposed Findings, Conclusions and Orders
 - § 503 Recommended Decision
 - § 504 Final Order by Director
 - § 505 Judicial Review
- (vi) Part VI: Miscellaneous Provisions.
 - § 601 Liberal Construction
 - § 602 Severability
 - § 603 Supersession of Prior Rules
 - § 604 Savings Clause

(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) New Mexico Statutes 1978 Annotated, Chapter 74, Environmental Improvement.
 - (1) 74-4-4.4 Underground Storage Tanks; Registration; Installer Certification; Fees [Insofar as it applies to individuals other than

- UST owners and operators.]
- (B) State of New Mexico Environmental Improvement Board Underground Storage Tank Regulations.
 - (1) Part I: General Provisions.
 - § 103 Applicability [Insofar as it does not exclude UST systems with *de minimis* concentrations of regulated substances; emergency spill or overflow containment UST systems expeditiously emptied after use; UST systems that are part of emergency generator systems at nuclear power generation facilities; airport hydrant fuel distribution systems; and UST systems with field-constructed tanks; and does not defer emergency power generator UST systems.]
 - (2) Part XIV: Certification of Tank Installers [Insofar as it applies to individuals other than UST owners and operators.]
 - § 1400 Purpose
 - § 1401 Legal Authority
 - § 1402 Definitions
 - § 1403 Applicability
 - § 1404 General Requirements
 - § 1405 Contractor Certification
 - § 1406 Individual Certification
 - § 1407 Experience Requirements
 - § 1408 Written Examination
 - § 1409 On-Site Examination
 - § 1410 Approval of Comparable Certification Programs
 - § 1411 Denial of Certificates
 - § 1412 Renewal of Certificates
 - § 1413 Installer Duties and Obligations
 - § 1414 Division Approval of Training and Continuing Education
 - § 1415 Complaints
 - § 1416 Investigations, Enforcement, Penalties
 - § 1417 Division Actions Against Certificates

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of New Mexico on June 25, 1990, 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 New Mexico to EPA, June 25, 1990, 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 September 25, 1989, 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 September 25, 1990, 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 Environmental Improvement Board, signed by the EPA Regional Administrator on September 13, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order "New Mexico" and its listing.

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

* * * * *

New Mexico

(a) The statutory provisions include:

1. New Mexico Statutes 1978 Annotated, Chapter 74, Environmental Improvement (1993 Replacement Pamphlet and 1994 Supplement)
 - a. Article 4: Hazardous Wastes
 - 74-4-1 Short Title
 - 74-4-2 Purpose
 - 74-4-3 Definitions
 - 74-4-3.1 Application of Act
 - 74-4-3.3 Hazardous Wastes of Other States
 - 74-4-4 Duties and Powers of the Board
 - 74-4-4.1 Hazardous Agricultural Waste; Duties and Responsibilities of the Department of Agriculture
 - 74-4-4.4 Underground Storage Tanks; Registration; Installer Certification; Fees [Except insofar as it applies to individuals other than UST owners and operators.]
 - 74-4-4.5 Hazardous Waste Fund Created; Appropriation
 - 74-4-4.7 Permit Applicant Disclosure
 - 74-4-4.8 Underground Storage Tank Fund Created; Appropriation
 - 74-4-5 Adoption of Regulations; Notice and Hearing
 - 74-4-7 Containment and Cleanup of Hazardous Substance Incidents; Division Powers
 - 74-4-8 Emergency Fund
 - 74-4-9 Existing Hazardous Waste Facilities; Interim Status
 - 74-4-10.1 Hazardous Waste Monitoring; Analysis and Testing
 - b. Article 6: Water Quality

- 74-6-1 Short Title
- 74-6-2 Definitions
- 74-6-3 Water Quality Control Commission Created
- 74-6-3.1 Legal Advice
- 74-6-4 Duties and Powers of Commission
- 74-6-5 Permits; Certification; Appeals to Commission
- 74-6-5.1 Disclosure Statements
- 74-6-5.2 Water Quality Management Fund Created
- 74-6-6 Adoption of Regulations and Standards; Notice and Hearing
- 74-6-8 Duties of Constituent Agencies
- 74-6-9 Powers of Constituent Agencies
- 74-6-12 Limitations
- 74-6-13 Construction
- 74-6-14 Recompiled
- 74-6-15 Confidential Information; Penalties
- 74-6-16 Effect and Enforcement of Water Quality Act During Transition
- 74-6-17 Termination of Agency Life; Delayed Repeal
- c. Article 6B: Ground Water Protection
- 74-6B-1 Short Title
- 74-6B-2 Findings; Purpose of Act
- 74-6B-3 Definitions
- 74-6B-4 Underground Storage Tank Committee; Creation; Terms; Powers and Duties
- 74-6B-6 Civil Liability for Damage to Property from Leaking Underground Storage Tank
- 74-6B-7 Corrective Action Fund Created; Authorization for Expenditures
- 74-6B-8 Liability; Cost Recovery
- 74-6B-9 Underground Storage Tank Fee; Deposit in Underground Storage Tank Fund
- 74-6B-10 Act Does not Create Insurance Company or Fund
- 74-6B-12 Early Response Team Created
- 74-6B-13 Payment Program
- 74-6B-14 State Liability; Insufficient Balance in the Fund
- (b) The regulatory provisions include:
1. State of New Mexico Environmental Improvement Board Underground Storage Tank Regulations
- a. Part I: General Provisions
- § 100 Purpose
- § 101 Legal Authority
- § 102 Definitions
- § 103 Applicability
- b. Part II: Registration of Tanks
- § 200 Existing Tanks
- § 201 Transfer of Ownership
- § 202 New UST System
- § 203 Substantially Modified UST Systems
- § 204 Notification of Spill or Release
- § 205 Emergency Repairs and Tank Replacement
- § 206 Application Forms
- § 207 Registration Certificate
- c. Part III: Annual Fee
- § 300 Payment of Fee
- § 301 Amount of Fee
- § 302 Late Payment Penalties
- d. Part IV: New and Upgraded UST Systems: Design, Construction, and Installation
- § 400 Performance Standards for New UST Systems
- § 401 Upgrading of Existing UST Systems
- § 402 Certificate of Compliance; Notification Requirements
- e. Part V: General Operating Requirements
- § 500 Spill and Overfill Control
- § 501 Operation and Maintenance of Corrosion Protection
- § 502 Compatibility
- § 503 Repairs Allowed
- § 504 Reporting and Recordkeeping
- § 505 Inspections, Monitoring and Testing
- f. Part VI: Release Detection
- § 600 General Requirements for All UST Systems
- § 601 Requirements for Petroleum UST Systems
- § 602 Requirements for Hazardous Substance UST Systems
- § 603 Methods of Release Detection for Tanks
- § 604 Methods of Release Detection for Piping
- § 605 Release Detection Recordkeeping
- g. Part VII: Release Reporting, Investigation, and Confirmation
- § 700 Reporting of Suspected Releases
- § 701 Investigation Due to Off-Site Impacts
- § 702 Release Investigation and Confirmation Steps
- § 703 Reporting and Cleanup of Spills and Overfills
- h. Part VIII: Out-of-Service Systems and Closure
- § 800 Temporary Closure
- § 801 Permanent Closure and Changes-in-Service
- § 802 Assessing the Site at Closure or Change-in-Service
- § 803 Applicability to Previously Closed UST Systems
- § 804 Closure Records
- i. Part IX: Financial Responsibility
- § 900 Applicability
- § 901 Compliance Dates
- § 902 Definition of Terms
- § 903 Amount and Scope of Required Financial Responsibility
- § 904 Allowable Mechanisms and Combinations of Mechanisms
- § 905 Financial Test of Self-Insurance
- § 906 Guarantee
- § 907 Insurance and Risk Retention Group Coverage
- § 908 Surety Bond
- § 909 Letter of Credit
- § 910 Use of State-Required Mechanism
- § 911 State Fund or Other State Assurance
- § 912 Trust Fund
- § 913 Standby Trust Fund
- § 914 Substitution of Financial Assurance Mechanisms by Owner or Operator
- § 915 Cancellation or Nonrenewal by a Provider of Financial Assurance
- § 916 Reporting by Owner or Operator
- § 917 Recordkeeping
- § 918 Drawing on Financial Assurance Mechanisms
- § 919 Release from the Requirements
- § 920 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance
- § 921 Replenishment of Guarantees, Letters of Credit, or Surety Bonds
- § 922 Suspension of Enforcement [reserved]
- j. Part XI: Miscellaneous
- § 1100 Compliance with Other Regulations
- § 1101 Construction
- § 1102 Severability
- k. Part XII: Corrective Action for UST Systems Containing Petroleum
- § 1200 General
- § 1201 Definitions
- § 1202 Initial Response
- § 1203 Initial Abatement
- § 1204 72 Hour and 7 Day Reporting Requirements
- § 1205 On-Site Investigation
- § 1206 Report on the On-Site Investigation
- § 1207 Split Samples and Sampling Procedures
- § 1208 Free Product Removal
- § 1209 Treatment of Highly Contaminated Soils
- § 1210 Hydrogeologic Investigation
- § 1211 Review and Approval of Hydrogeologic Investigation
- § 1212 Reclamation Proposal
- § 1213 Public Notice of Reclamation Proposal
- § 1214 Review and Approval of Reclamation Proposal
- § 1215 Implementation of Reclamation Proposal
- § 1216 Quarterly Reports
- § 1217 Evaluation of Corrective Action System
- § 1218 Modification of Reclamation Proposal
- § 1219 Termination of Reclamation
- § 1220 Technical Infeasibility for Completion of Reclamation
- § 1221 Request for Extension of Time
- § 1222 Request for Variance
- l. Part XIII: Corrective Action for UST Systems Containing Other Regulated Substances
- § 1300 General
- § 1301 Definitions
- § 1302 Initial Response
- § 1303 Initial Abatement
- § 1304 72 Hour and 7 Day Reporting Requirements
- § 1305 On-Site Investigation
- § 1306 Report on the On-Site Investigation
- § 1307 Split Samples and Sampling Procedures
- § 1308 Hydrogeologic Investigation
- § 1309 Review and Approval of Hydrogeologic Investigation
- § 1310 Reclamation Proposal
- § 1311 Public Notice of Reclamation Proposal
- § 1312 Review and Approval of Reclamation Proposal
- § 1313 Implementation of Reclamation Proposal
- § 1314 Quarterly Reports
- § 1315 Evaluation of Corrective Action System
- § 1316 Modification of Reclamation Proposal
- § 1317 Termination of Reclamation
- § 1318 Additional Water Quality Standards
- § 1319 Request for Extension of Time

- § 1320 Request for Variance
- m. Part XV: Ground Water Protection Act Regulations
- § 1500 Purpose
- § 1501 Legal Authority
- § 1502 Definitions
- § 1503 Construction
- § 1504 Permissible Fund Expenditures
- § 1505 Priorities for Fund Expenditures
- § 1506 Site-Specific Allocation of Fund Monies
- § 1507 Reserved and Dedicated Fund Monies
- § 1508 Minimum Site Assessment
- 2. Corrective Action Fund Payment and Reimbursement Regulations
 - a. Part I: General Provisions
 - § 101 Authority
 - § 102 Purpose
 - § 103 Applicability
 - § 104 Definitions
 - b. Part II: Compliance Determinations
 - § 201 General
 - § 202 Determination of Compliance under Section 74-6B-8
 - § 203 Compliance Determination Following Written Submission
 - c. Part III: Eligible and Ineligible Costs
 - § 301 Minimum Site Assessment
 - § 302 Corrective Action
 - d. Part IV: Application, Payment, and Reimbursement
 - § 401 Application, Payment, and Reimbursement Process
 - e. Part V: Administrative Review
 - § 501 Review by the Director on Written Submittal
 - § 502 Request for Hearing on Determinations of Compliance and Cost Eligibility
 - § 503 Notice of Docketing and Hearing Officer Assignment; Motions; Prehearing Procedures and Discovery; Hearing and Post-Hearing Procedures
 - f. Part VI: Miscellaneous Provisions
 - § 601 Liberal Construction
 - § 602 Severability
 - § 603 Compliance

[FR Doc. 96-521 Filed 1-17-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 282

[FRL-5304-3]

Underground Storage Tank Program: Approved State Program for Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's

inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Oklahoma's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

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

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

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

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Oklahoma on August 12, 1992 (57 FR 41874). Approval was effective on October 14, 1992.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Oklahoma underground storage tank program. This codification reflects the state program in effect at the time EPA granted Oklahoma approval under section 9004(a), 42

U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Oklahoma program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Oklahoma program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Oklahoma, the status of federally approved requirements of the Oklahoma program will be readily discernible. Only those provisions of the Oklahoma underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Oklahoma's underground storage tank program, EPA has added § 282.86 to title 40 of the CFR. Section 282.86 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.86 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Oklahoma enforcement authorities will not be incorporated by reference. Section 282.86 lists those approved Oklahoma authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.86 of the codification simply lists for reference