

**Environmental Protection Agency**

**§ 281.11**

**PART 281—APPROVAL OF STATE UNDERGROUND STORAGE TANK PROGRAMS**

281.61 Procedures for withdrawal of approval of state programs.

AUTHORITY: 42 U.S.C. 6912, 6991 (c), (d), (e), (g).

SOURCE: 53 FR 37241, Sept. 23, 1988, unless otherwise noted.

**Subpart A—Purpose, General Requirements and Scope**

**Subpart A—Purpose, General Requirements and Scope**

Sec.

281.10 Purpose.

281.11 General requirements.

281.12 Scope and definitions.

**§ 281.10 Purpose.**

**Subpart B—Components of a Program Application**

(a) This subpart specifies the requirements that state programs must meet for approval by the Administrator under section 9004 of RCRA, and the procedures EPA will follow in approving, revising and withdrawing approval of state programs.

281.20 Program application.

281.21 Description of state program.

281.22 Procedures for adequate enforcement.

281.23 Schedule for interim approval.

281.24 Memorandum of agreement.

281.25 Attorney General's statement.

(b) State submissions for program approval must be in accordance with the procedures set out in this part.

**Subpart C—Criteria for No-Less-Stringent**

(c) A state may apply for approval under this subpart at any time after the promulgation of release detection, prevention, and correction regulations under section 9003 of RCRA.

281.30 New UST system design, construction, installation, and notification.

281.31 Upgrading existing UST systems.

281.32 General operating requirements.

281.33 Release detection.

281.34 Release reporting, investigation, and confirmation.

(d) Any state program approved by the Administrator under this part shall at all times be conducted in accordance with the requirements of this part.

281.35 Release response and corrective action.

281.36 Out-of-service UST systems and closure.

281.37 Financial responsibility for UST systems containing petroleum.

281.38 Financial responsibility for USTs containing hazardous substances. [Reserved]

281.39 Lender liability.

**§ 281.11 General requirements.**

**Subpart D—Adequate Enforcement of Compliance**

(a) *State program elements.* The following substantive elements of a state program must be addressed in a state application for approval:

281.40 Requirements for compliance monitoring program and authority.

281.41 Requirements for enforcement authority.

281.42 Requirements for public participation.

281.43 Sharing of information.

(1) Requirements for all existing and new underground storage tanks:

(i) New UST systems (design, construction, installation, and notification);

(ii) Upgrading of existing UST systems;

(iii) General operating requirements;

(iv) Release detection;

(v) Release reporting, investigation, and confirmation;

(vi) Out-of-service USTs and closure;

(vii) Release response and corrective action; and

(viii) Financial responsibility for UST systems containing petroleum.

**Subpart E—Approval Procedures**

281.50 Approval procedures for state programs.

281.51 Amendment required at end of interim period.

281.52 Revision of approved state programs.

(2) Provisions for adequate enforcement of compliance with the above program elements.

**Subpart F—Withdrawal of Approval of State Programs**

281.60 Criteria for withdrawal of approval of state programs.

(b) *Final approval.* The state must demonstrate that its requirements

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under each state program element for existing and new UST systems are no less stringent than the corresponding federal requirements as set forth in subpart C of this part, except as provided in paragraph (c) of this section. The state must also demonstrate that it has a program that provides adequate enforcement of compliance with these requirements.

(c) *Interim approval.* (1) The Administrator may approve state programs with requirements less stringent than the federal requirements for a period of 1 to 3 years from September 23, 1988. Such interim approval may be granted only if state regulatory and/or legislative change is required in order for the state program to be no less stringent than the federal requirements and standards under part 280 for one or more of the following program elements: Release detection at existing UST systems; release reporting and investigation; and out-of-service or closed UST systems.

(2) A state program may receive interim approval if it:

(i) Has requirements for three elements:

- (A) Release Detection;
- (B) Release Reporting, Investigation, and Confirmation; and
- (C) Out-of-Service UST Systems and Closure; and

(ii) Has requirements that are no less stringent than the corresponding federal requirements for five elements:

- (A) New UST System Design, Construction, Installation and Notification;
- (B) Upgrading Existing UST Systems;
- (C) General Operating Requirements;
- (D) Release Response and Corrective Action; and
- (E) Financial Responsibility for UST systems containing petroleum; and

(iii) Provides for adequate enforcement of compliance with these requirements.

(3) A state with a program that has received interim approval must receive final approval of an amended program containing program elements that are no less stringent than the corresponding federal program elements under subpart C in accordance with the following schedule:

(i) If only state regulatory action is required, the state must submit an amended program to EPA for approval before September 23, 1989.

(ii) If only state legislative action is required, the state must submit an amended program to EPA for approval before September 23, 1990.

(iii) If both state legislative and regulatory action are required, the state must submit an amended program to EPA for approval before September 23, 1991.

(d) States with programs approved under this part are authorized to administer the state program in lieu of the federal program and will have primary enforcement responsibility with respect to the requirements of the approved program. EPA retains authority to take enforcement action in approved states as necessary and will notify the designated lead state agency of any such intended action.

**§ 281.12 Scope and definitions.**

(a) *Scope.* (1) The Administrator may approve either partial or complete state programs. A "partial" state program regulates either solely UST systems containing petroleum or solely UST systems containing hazardous substances. If a "partial" state program is approved, EPA will administer the remaining part of the program. A "complete" state program regulates both petroleum and hazardous substance tanks.

(2) EPA will administer the UST program on Indian lands, except where Congress has clearly expressed an intention to grant a state authority to regulate petroleum and hazardous substance USTs on Indian lands. In either case, this decision will not impair a state's ability to obtain program approval for petroleum and/or hazardous substances on non-Indian lands in accordance with this part.

(3) Nothing in this subpart precludes a state from:

(i) Adopting or enforcing requirements that are more stringent or more extensive than those required under this part; or