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40 CFR Ch. I (7-1-03 Edition)

reference herein for enforcement purposes.

(A) The statutory provisions include: Title 38 Maine Revised Statutes Annotated, Sections 561 through 570.

(B) The regulatory provisions include: Maine Regulations for Registration, Installation, Operation and Closure of Underground Oil Storage Facilities Chapter 691 Section 1 through 13.

(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) Title 38 Maine Statutes Annotated, Section 565, insofar as it refers to registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(B) Maine Environmental Protection Regulations Chapter 691, Section 6 regulations of heating oil facilities for consumption on premises, Section 9 facilities for underground storage of heavy oils.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Maine on December 5, 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.*

(ii) Letter from the Attorney General of Maine to EPA, 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 November 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) *Program description.* The program description and any other material submitted as part of the original application in December 20, 1991, 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 I and the Maine Department of Environmental Protection, signed by the EPA Regional Administrator on November, 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.*

[61 FR 6555, Feb. 21, 1996]

§ 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 of Public Safety (now called the Massachusetts Department of Fire Services) and the Massachusetts Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR Part 281 EPA approved the Massachusetts program on March 3, 1995, which was effective on April 17, 1995.

(b) Massachusetts 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 RCRA, 42 U.S.C. 6991d and 6991e, as well as under other 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 make 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 notice of any change will be published in the FEDERAL REGISTER.

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(d) Massachusetts has final approval for the following elements submitted to EPA in Massachusetts' program application for final approval and approved by EPA on March 3, 1995. Copies may be obtained from the Underground Storage Tank Program, Massachusetts Department of Environmental Protection, 1 Winter Street, Boston, MA 02108 or Massachusetts Department of Fire Services, P.O. Box 1025, State Road, Stowe, MA 01775. The elements are listed below:

(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) Massachusetts Statutory Requirements Applicable to the Underground Storage Tank Program at Massachusetts General Laws, Chapter 148, Section 13 Paragraph 3 and Sections 38, 38A-38C, and 38E; Massachusetts General Laws, Chapter 21E, Sections 2, 3A(e) and 3(c), 4, 5, 6, 8.

(B) Massachusetts Regulatory Requirements Applicable to the Underground Storage Tank Program at 527 CMR 9.00-9.02 and 9.05, 9.06(C), (D) and (E), and 9.07(A)-(I) and 9.07((K)-(L); and those provisions of 310 CMR Sections 40.0000 subparts A-O only insofar as they pertain to the regulation of underground storage tanks in Massachusetts and only insofar as they 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.

(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: Massachusetts General Laws, Chapter 148, Section 4; Sections 38D, 38F, 38I through 38H; Massachusetts General Law, Chapter 21E, The Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, Amended 1992 Massachusetts General Laws, Sections 7, 9, and 11, and Chapter 21J, Sections 2-4; and, Massachusetts General Law, Chapter 185, Section 3.

(B) The regulatory provisions include: Massachusetts Board of Fire

Prevention Rules, 527 CMR Sections 9.07(J); and, Massachusetts Environmental Protection Rules, and those provisions of 310 CMR Sections 40.0000 Subparts A-O only insofar as they pertain to the regulation of underground storage tanks in Massachusetts and are not incorporated by reference and only insofar as they are not broader in scope than the federal requirements.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, and are not incorporated by reference herein for enforcement purposes.

(A) Massachusetts Board of Fire Prevention Rules, Sections 9.03 through 9.04 which pertain to aboveground tanks; 9.05A(4) insofar as it refers to upgrade requirements for new or replacement underground tanks for consumptive use on the premises; 9.06 (A) and (B) insofar as they refer to aboveground tanks; and 9.07(J) insofar as it refers to aboveground tanks, and those provisions of 310 CMR 40.0000 Subparts A-O 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.

(B) [Reserved]

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Massachusetts on August 18, 1993, though not incorporated by reference, is 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 Massachusetts to EPA, August 18, 1993, though not incorporated by reference, is 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 1991, though not incorporated by reference, is 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 (PD) and any other material submitted as part of the original application in December 1991, though not incorporated by reference, are 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 April 30, 1995, EPA and the Massachusetts Department of Public Safety and the Massachusetts Department of Environmental Protection Memorandum of Agreement (MOA), though not incorporated by reference, is part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[61 FR 56136, Oct. 31, 1996]

§§ 282.72–282.73 [Reserved]

§ 282.74 Mississippi State-Administered Program.

(a) The State of Mississippi 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 Mississippi Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Mississippi program on June 11, 1990 and it was effective on July 11, 1990.

(b) Mississippi 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, Mississippi 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 Mississippi 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) Mississippi has final approval for the following elements submitted to EPA in the State's program application for final approval and approved by EPA on June 11, 1990. Copies may be obtained from the Underground Storage Tank Program, Mississippi Department of Environmental Quality, 2380 Highway 80 West, Jackson, MS 39289-0385.

(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) Mississippi Statutory Requirements Applicable to the Underground Storage Tank Program, 1996.

(B) Mississippi Regulatory Requirements Applicable to the Underground Storage Tank Program, 1996.

(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) Mississippi Code of 1972, Title 49, Sections 49-17-401 through 49-17-435, Underground Storage Tank Act of 1988, as amended.

49-17-415 Obligations of owners and operators of tanks; powers of commission or representatives

49-17-427 Proceedings before commission; penalties for violations of Sections 49-17-401 through 49-17-433

49-17-431 Appeal rights

(2) Mississippi Code of 1972, Title 49, Chapter 17, Pollution of Waters, Streams, and Air.

49-17-17 Powers and duties

49-17-27 Emergency orders; public notice of emergency situations

49-17-31 Proceedings before commission

49-17-33 Hearings

49-17-35 Request for hearing

49-17-41 Administrative appeals; appeals to chancery court; appeals to supreme court

49-17-43 Penalties

(3) Mississippi Code of 1972, Title 49, Chapter 2, Department of Environmental Quality.

49-2-9 Commission on Environmental Quality; powers and duties