

§ 282.85

40 CFR Ch. I (7-1-08 Edition)

Dakota Department of Health Consolidated Laboratories, 1200 Missouri Avenue, Bismarck, ND 58502-5520.

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

(B) North Dakota 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: North Dakota Century Code (NDCC), Chapter 23-20.3, Sections 23-20.3-06, 23-20.3-07 and 23-20.3-09.

(B) The regulatory provisions include: North Dakota Administrative Code, Chapter 33-24-08, Sections 33-24-08-56, 33-24-08-57 and 33-24-08-98.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of North Dakota on February 28, 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 North Dakota to EPA, February 28, 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.*

(3) *Demonstration of Procedures for Adequate Enforcement.* The "Demonstration of Procedures For Adequate Enforcement" submitted as part of the original application in April 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 April 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 VIII and the North Dakota Department of Health and Consolidated Laboratories, signed by the EPA Regional Administrator on September 10, 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.*

[60 FR 32470, June 22, 1995]

§ 282.85 [Reserved]

§ 282.86 Oklahoma State-Administered Program.

(a) 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 approved the Oklahoma program on August 12, 1992 and it was effective on October 14, 1992.

(b) Oklahoma 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, 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 submitted to

Environmental Protection Agency

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EPA in Oklahoma's program application for final approval and approved by EPA on August 12, 1991. Copies may be obtained from the Underground Storage Tank Program, Oklahoma Corporation Commission, Jim Thorpe Building, Room 238, Oklahoma City, OK 73105.

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

(B) Oklahoma 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) Oklahoma Statutes, Chapter 14: Oklahoma Underground Storage Tank Regulation Act

§306 Corporation Commission—Powers and Duties

§310 Inspections and Investigations—Violations—Notice—Failure To Take Corrective Action—Notice and Hearing—Orders—Service of Instruments—Notice to Real Property Owner and Opportunity for Hearing

§312 Enforcement of Actions and Remedies—Action for Equitable Relief—Jurisdiction—Relief

(B) The regulatory provisions include:

(1) Oklahoma Annotated Code, Chapter 25: Underground Storage Tanks, Subchapter 9: Inspections, Testing, and Monitoring

Part 1: Inspections

Part 5: Penalties

Part 7: Field Citations

Part 9: Shutdown of Operations

(2) Oklahoma Annotated Code, Chapter 27: Petroleum Storage Tank Release Indemnity Program, Subchapter 9: Administrative Provisions

§165:27-9-1 Hearing, Orders, and Appeals

§165:27-9-2 Changes to Rules

§165:27-9-3 Notices

§165:27-9-4 Severability

(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) *Oklahoma Statutes, Chapter 14: Oklahoma Underground Storage Tank Regulation Act*

§308 Permits—Necessity—Application—Issuance—Fees—Denial, Refusal to Issue, Suspension or Revocation—Financial Responsibility Coverage (Insofar as (B) applies to individuals other than UST system owners and operators.)

§318 Program for Certification of Underground Storage Tank Professionals—Meeting Training and Other Requirements for Federal Law and Regulations and State Statutes (Insofar as it applies to individuals other than UST owners and operators.)

(B) *Oklahoma Annotated Code, Chapter 25: Underground Storage Tanks*

(1) Subchapter 1: General Provisions

Part 9: Notification and Reporting Requirements (Insofar as 165:25-1-45 requires owners of exempt USTs to notify the Commission of the existence of such systems.)

(2) Subchapter 3: Release Prevention, Detection, and Correction

Part 9: Installation of Underground Storage Tank Systems (Insofar as 165:25-3-48 applies to individuals other than UST owners and operators.)

Part 19: Certification for UST Consultants (Insofar as it applies to individuals other than UST owners and operators.)

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Oklahoma on June 21, 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 Oklahoma to EPA, June 21, 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 June 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 June 25, 1989, 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 April 8, 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 1221, Jan. 18, 1996]

§ 282.87 [Reserved]

§ 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, 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