

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 282**

[EPA–R03–UST–2023–0204; FRL 10811–02–Region 3]

**Pennsylvania: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Solid Waste Disposal Act of 1965, as amended (commonly known as the Resource Conservation and Recovery Act (RCRA)), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's Underground Storage Tank (UST) program submitted by the Commonwealth of Pennsylvania (Pennsylvania or State). This action also codifies EPA's approval of Pennsylvania's State program and incorporates by reference (IBR) those provisions of Pennsylvania's regulations and statutes that EPA has determined meet the requirements for approval. The provisions 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.

**DATES:** This rule is effective September 23, 2024, unless EPA receives significant negative comments opposing this action by August 23, 2024. If EPA receives significant negative comments opposing this action, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of September 23, 2024, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments by one of the following methods:

1. **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. **Email:** [uybarreta.thomas@epa.gov](mailto:uybarreta.thomas@epa.gov).  
**Instructions:** Direct your comments to Docket ID No. EPA–R03–UST–2023–0204.

EPA's policy is that all comments received will be included in the public docket without change and may be available online at <https://www.regulations.gov>, including any

personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal website, <https://www.regulations.gov>, is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in this document for assistance. If you need assistance in a language other than English, or you are a person with disabilities who needs a reasonable accommodation at no cost to you, please reach out to the EPA contact person by email or phone.

**Docket:** All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Publicly available materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Thomas UyBarreta, (215) 814–2953, [uybarreta.thomas@epa.gov](mailto:uybarreta.thomas@epa.gov), RCRA Programs Branch; Land, Chemicals, and Redevelopment Division, EPA Region 3, Four Penn Center, 1600 John F. Kennedy Blvd., (Mailcode 3LD30), Philadelphia, PA 19103.

**SUPPLEMENTARY INFORMATION:****I. Approval of Revisions to Pennsylvania's Underground Storage Tank Program****A. Why are revisions to State programs necessary?**

Section 9004 of RCRA authorizes EPA to approve State underground storage tank (UST) programs to operate in lieu of the Federal UST program. EPA may approve a State program if the State demonstrates, pursuant to section 9004(a), 42 U.S.C. 6991c(a), that the State program includes the elements set forth at section 9004(a)(1) through (9), 42 U.S.C. 6991c(a)(1) through (9), and provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)). Additionally, EPA must find, pursuant to section 9004(b), 42 U.S.C. 6991c(b), that the State program is "no less stringent" than the Federal program in the elements set forth at section 9004(a)(1) through (7), 42 U.S.C. 6991c(a)(1) through (7). States such as Pennsylvania that have received final UST program approval from EPA under section 9004 of RCRA must, in order to retain such approval, revise their approved programs when the controlling Federal or State statutory or regulatory authority is changed and EPA determines a revision is required. In 2015, EPA revised the Federal UST regulations and determined that States must revise their UST programs accordingly.

**B. What decisions has EPA made in this rule?**

On March 24, 2022, in accordance with 40 CFR 281.51, Pennsylvania submitted a complete program revision application seeking EPA approval for its UST program revisions (State Application). Pennsylvania's revisions correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 State program approval (SPA) regulations. As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting program approval; a description of the program and operating procedures; a demonstration of the State's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of EPA and the implementing agency; an Attorney General's statement in accordance with 40 CFR 281.24 certifying to applicable State authorities; and copies of all relevant State statutes and regulations. EPA has reviewed the State Application and determined that the revisions to Pennsylvania's UST program are no less

stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that Pennsylvania's program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, EPA grants Pennsylvania final approval to operate its UST program with the changes described in the State Application, and as outlined below in section I.G. of this preamble.

*C. What is the effect of this approval decision?*

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in Pennsylvania, and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

*D. Why is EPA using a direct final rule?*

EPA is publishing this direct final rule concurrently with a proposed rulemaking because EPA views this as a noncontroversial action and anticipates no significant negative comment. EPA is providing an opportunity for public comment now.

*E. What happens if EPA receives comments that oppose this action?*

Along with this direct final rule, EPA is publishing a separate document in the

“Proposed Rules” section of this **Federal Register** that serves as the proposal to approve the State's UST program revisions, providing opportunity for public comment. If EPA receives significant negative comments that oppose this approval, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will not make any further decision on the approval of the State program changes until it considers any significant negative comment received during the comment period. EPA will address any significant negative comment in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

*F. For what has Pennsylvania previously been approved?*

On September 11, 2003, EPA finalized a rule approving Pennsylvania's UST program, effective that same day (68 FR 53520), to operate in lieu of the Federal program. On March 17, 2006, effective May 16, 2006 (71 FR 13769), EPA codified the approved Pennsylvania program, incorporating by reference the State's statutes and regulatory provisions that are subject to EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other

applicable statutory and regulatory provisions.

*G. What changes is EPA approving with this action?*

On March 24, 2022, in accordance with 40 CFR 281.51, Pennsylvania submitted a complete application for final approval of its UST program revisions adopted on December 21, 2018, effective December 22, 2018. EPA has reviewed Pennsylvania's UST program requirements and determined that such requirements are no less stringent than the Federal regulations and that the criteria set forth in 40 CFR part 281, subpart C are met. As part of the State Application, the Attorney General for Pennsylvania certified that the laws and regulations of Pennsylvania provide adequate authority to carry out a program that is “no less stringent” than the Federal requirements in 40 CFR part 281. EPA is relying on this certification in addition to the analysis submitted by Pennsylvania in making our determination. EPA now makes an immediate final decision, subject to receipt of any significant negative written comments that oppose this action, that Pennsylvania's UST program revisions satisfy all of the requirements necessary to qualify for final approval. Therefore, EPA grants Pennsylvania final approval for the following program changes:

Required Federal element	Implementing State authority
40 CFR 281.30, New UST Systems and Notification .....	25 Pa. Code 245.2(c), 245.21(a), 245.41, 232(a)(1), 245.403(b)–(d), 245.405, 245.421, 245.422(d), (e), 245.435(c)(1), 245.442(a), 245.443(1).
40 CFR 281.31, Upgrading Existing UST Systems .....	25 Pa. Code 245.403(d)(1), 245.422.
40 CFR 281.32, General Operating Requirements .....	25 Pa. Code 245.2(c)(3), 245.41, 245.405, 245.422, 245.425(4), 245.431, 245.432(a) and (c), 245.433–435, 245.437(a)(1)–(2), (b) and (c), 245.438.
40 CFR 281.33, Release Detection .....	25 Pa. Code 245.1, 245.304(a), (c)(1) and (3), 245.305(a) and (i), 245.403(b) and (d)(1), 245.437(a)(3), (b) and (c), 245.441, 245.442(a) and (b)(1) and (2), 245.443–445.
40 CFR 281.34, Release Reporting, Investigation, and Confirmation .....	25 Pa. Code 245.1, 245.304(a),(b), (c)(1), (c)(3), 245.305(a) and (i).
40 CFR 281.35, Release Response and Corrective Action .....	25 Pa. Code 245.305(f) and (i), 245.306(a), (e), 245.306–309, 245.310(a)–(b), 245.311(a)–(c), 245.312, 245.313(a)–(b).
40 CFR 281.36, Out-of-service Systems and Closure .....	25 Pa. Code 245.451–454.
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum.	25 Pa. Code 245.435(a)–(b), (d), 245.704(a)–(c), 245.706, 977.31, 977.33(a).
40 CFR 281.38, Lender Liability .....	25 Pa. Code 245.2(a).
40 CFR 281.39, Operator Training .....	25 Pa. Code 245.411(d), 245.436, “Underground Storage Tank Class A and Class B Operator Training Courses” Document Number 263–2300–001, effective December 19, 2019.

The State also demonstrates that its program provides adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D. Pennsylvania's lead implementing agency, the Pennsylvania Department of Environmental Protection (PADEP), has broad statutory and regulatory authority

with respect to USTs to regulate installation, operation, maintenance, closure and UST releases, and to the issuance of orders. The statutory and regulatory authority is found in Pennsylvania's Storage Tank and Spill Prevention Act of 1989 at sections 101 through 2105 (35 P.S. sections

6021.101–6021.2105), and in Pennsylvania's Regulations, Administration of the Storage Tank and Spill Prevention Program, Title 25, Chapter 245, Subchapters A–H (25 Pa. Code sections 245.1–245.708). The procedures the State will follow to prohibit deliveries are set forth in a

guidance document entitled “Storage Tank Product Delivery Prohibition,” Document Number 263–4000–001, effective September 8, 2012. In addition, the State’s guidance document entitled “Underground Storage Tank Class and Class Training Courses,” Document Number 263–2300–001, effective December 14, 2019, that mandates operator retraining (and is referenced in 25 Pa. Code section 245.411(d)) is part of the approved program. Should the State change this guidance in the future to make retraining non-mandatory, the approved program will continue to require operator retraining based on the December 2019 guidance.

#### *H. Where are the revised rules different from the Federal rules?*

##### Broader in Scope Provisions

Where an approved State program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the federally-approved program and is not federally enforceable (40 CFR 281.12(a)(3)(ii)). The following Pennsylvania requirements are considered “broader in scope” than the Federal program:

- The State regulates aboveground tanks. *See, e.g.*, 35 P.S. Chapters 3, 9, 11; 25 Pa. Code 245 Subchapters C, F, G.
  - The State *may* regulate substances in addition to those regulated under the Federal program. 35 P.S. Section 103(“Regulated substance”); 25 Pa. Code Section 245.1(“Regulated substance”).
  - The State regulates persons who are not owners or operators of USTs under corrective action requirements. *See, e.g.*, 25 Pa. Code 245 Subchapter D.
  - The State requires site-specific permits before installation and construction of new highly hazardous substance tanks and new field constructed tanks 25 Pa. Code Sections 245.231–.237.
  - The State requires that owners or operators of USTs obtain an operating permit. 25 Pa. Code Section 245.203.
  - The State charges fees for UST registration. 25 Pa. Code Sections 245.41–43.
  - The State requires contractor licensure and certification of persons other than installers. 35 P.S. Chapter 108; 25 Pa. Code 245 Subchapter B.
- In accordance with 40 CFR 281.12(a)(3)(ii), the additional coverage listed above is not part of the federally-approved program and is not federally enforceable.

##### Other Provisions

The State *may* exclude from its program underground storage tanks not

excluded under the Federal program. The State’s statutory and regulatory definitions of “underground storage tank” do not include any other tank excluded by policy or regulations promulgated under the Storage Tank and Spill Prevention Act. 35 P.S. section 6021.103(13); 25 Pa. Code section 245.1 (subparagraph (xvii) of “Underground storage tank”). Should Pennsylvania choose to exercise such authority and exclude tanks not currently excluded from its UST definition, its program scope of coverage could be rendered unacceptably narrower than the Federal program. Accordingly, EPA is not approving these two provisions as part of the federally-approved program. In its State Program Application (Program Description), Pennsylvania acknowledged that EPA would exclude these two provisions.

## II. Codification

### *A. What is codification?*

Codification is the process of placing a State’s statutes and regulations that comprise the State’s approved program into the Code of Federal Regulations (CFR). Section 9004(b) of RCRA, as amended, allows EPA to approve State UST programs to operate in lieu of the Federal program. EPA codifies its authorization of State programs in 40 CFR part 282 and incorporates by reference State statutes and regulations that EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable statutory provisions. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public’s ability to discern the current status of the approved State program and State requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each State.

### *B. What is the history of codification of Pennsylvania’s UST program?*

EPA incorporated by reference Pennsylvania’s approved UST program at 40 CFR 282.88 effective May 16, 2006 (71 FR 13769, March 17, 2006). In this document, EPA is revising 40 CFR 282.88 to include the approved revisions.

### *C. What codification decisions has EPA made in this rule?*

*Incorporation by reference:* In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of provisions of Pennsylvania statutes

and regulations pertaining to USTs as described in sections I.G., I.H. and II.E. of this preamble that are applicable for Federal enforcement purposes. The specific requirements to be incorporated are set forth below in the amendments to 40 CFR part 282. EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 3 office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

One purpose of this **Federal Register** document is to codify Pennsylvania’s approved UST program. The codification reflects the State program that will be in effect at the time EPA’s approved revisions to Pennsylvania’s UST program addressed in this direct final rule become final. If, however, EPA receives any significant negative comment opposing the proposed rulemaking then this codification will not take effect, and the State rules that are approved after EPA considers public comment will be codified instead. This document incorporates by reference Pennsylvania’s UST statutes and regulations and clarifies which of these provisions are included in the approved and federally-enforceable program. By codifying the approved Pennsylvania program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Pennsylvania program.

EPA is incorporating by reference the Pennsylvania approved UST program in 40 CFR 282.88. Section 282.88(d)(1)(i) incorporates by reference for enforcement purposes the State’s statutes and regulations.

Section 282.88 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 UST program under Subtitle I of RCRA. These documents are not incorporated by reference.

### *D. What is the effect of Pennsylvania’s codification on enforcement?*

The EPA 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 and to issue orders in approved States. If EPA determines it will take such actions in Pennsylvania, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State’s authorized analogs to these provisions. Therefore,

EPA is not incorporating by reference such approved Pennsylvania's procedural and enforcement authorities. Section 282.88(d)(1)(ii) of 40 CFR lists those approved Pennsylvania authorities that would fall into this category.

*E. What State provisions are not part of the codification?*

The public also needs to be aware that some provisions of the State's UST program are not part of the federally-approved State program. Most of these provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. 40 CFR 281.12(a)(3)(ii) states that where an approved State program has a greater scope of coverage than required by Federal law, the additional coverage is not a part of the federally-approved program. As a result, State provisions that are "broader in scope" than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.88(d)(1)(iii) lists for reference and clarity Pennsylvania's statutory and regulatory provisions that are "broader in scope" than the Federal program and which are not, therefore, part of the approved program being codified in this action. Provisions that are "broader in scope" cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

In addition, as discussed above at I. H. of this preamble, EPA is not approving certain provisions in Pennsylvania's statutory and regulatory definitions of underground storage tank, because the exercise of the authority pursuant to either provision could render the State program scope narrower than the Federal program. 35 P.S. 6021.103(Underground storage tank, paragraph (13)), 25 Pa. Code 245.1(Underground storage tank, subparagraph (xvii)). EPA is not codifying either provision. By so doing, even if in the future Pennsylvania acts to exclude other tanks not already excluded from its UST definitions, the approved program will continue to exclude only those tanks currently excluded. Section 282.88(d)(1)(iii) also lists for reference and clarity these two provisions.

### III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review*

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), because this action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action was not subject to a requirement for Executive Order 12866 review.

*B. Paperwork Reduction Act (PRA)*

This rule does not impose an information collection burden under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.*, because this action authorizes State requirements pursuant to RCRA section 9004 and imposes no requirements beyond those imposed by State law.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandates as described in UMRA, 2 U.S.C. 1501 *et seq.*, and does not significantly or uniquely affect small governments because this action approves and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law.

*E. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67429, November 9, 2000) because currently there are no federally recognized tribes in Pennsylvania. Thus, Executive Order 13175 does not apply to this action.

*F. Executive Order 13132: Federalism*

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves and codifies State

requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive order. Therefore, this action is not subject to Executive Order 13045 because it approves a State program.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a "significant regulatory action" as defined under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Under RCRA section 9004(b), EPA grants a State's application for approval as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State approval application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the NTTAA, 15 U.S.C. 272 note, do not apply to this action.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations. Because this action approves pre-existing State rules that are no less stringent than existing Federal requirements and imposes no additional requirements beyond those imposed by State law, and there are no

anticipated significant adverse human health or environmental effects, this rule is not subject to Executive Order 12898.

#### K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report containing this document and other required information to each House of the Congress and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). However, this action will be effective September 23, 2024 because it is a direct final rule.

*Authority:* This rule is issued under the authority of section 9004 of the Solid Waste Disposal Act of 1965, as amended, 42 U.S.C. 6991c.

#### List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, State program approval, Surety bonds, Underground storage tanks, Water pollution control, Water supply.

**Adam Ortiz,**

*Regional Administrator, EPA Region 3.*

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 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.

■ 2. Revise § 282.88 to read as follows:

##### § 282.88 Pennsylvania State-Administered Program.

(a) The Commonwealth of Pennsylvania 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 Pennsylvania’s Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved Pennsylvania’s

underground storage tank program on September 11, 2003, and approval was effective on September 11, 2003. A subsequent program revision application was approved by EPA and became effective on September 23, 2024.

(b) Pennsylvania has primary responsibility for administering and enforcing its federally-approved 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, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Pennsylvania must revise its approved program to adopt new changes to the Federal Subtitle I program which makes it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Pennsylvania 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) Pennsylvania has final approval for the following elements of its program application originally submitted to EPA and approved on September 11, 2003, and effective September 11, 2003, and the program revision application submitted to EPA on March 24, 2022, and approved by EPA, effective on September 23, 2024.

(1) *State statutes and regulations—(i) Incorporation by reference.* The provisions cited in paragraph (d)(1)(i) of this section, and listed in appendix A to part 282, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) 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.* 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. For the availability of this information at the National Archives and Records Administration and at the EPA, see § 282.2(b). You may obtain copies of Pennsylvania’s regulations and statutes that are incorporated by reference in this paragraph (d)(1) from Pennsylvania Department of Environmental Protection, Bureau of Environmental Cleanup and Brownfields, Rachel Carson State Office Building, 400 Market Street, 14th Floor, Harrisburg, PA 17101; phone number 1–

800–428–2657 (within PA) or 1–717–772–5599 (outside of PA).

(A) Pennsylvania Statutory Requirements Applicable to the Underground Storage Tank Program, December 2017.

(B) Pennsylvania Regulatory Requirements Applicable to the Underground Storage Tank Program, December 2018.

(ii) *Legal basis.* EPA evaluated the following statutes and regulations, which are part of the approved program, but they are not being incorporated by reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:  
(1) Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32, 35 P.S. Sections: 6021.106(a); 6021.107; 6021.503(b); 6021.505; 6021.1301–1315.

(2) Title 35, Health and Safety; Chapter 44. Environmental Hearing Board Act, 35 P.S. Sections 7511–7516.

(3) Title 71, Part I, Ch. 2, Article IV. Organization of Departmental Administrative Boards and Commissions and of Advisory Boards and Commissions, 71 P.S. Section 180–1 Environmental Quality Board (Adm. Code section 471).

(4) Title 71, Part I, Ch. 2, Article XIX–A. Powers and Duties of the Department of Environmental Resources, its Officers and Departmental Advisory Boards and Commissions, 71 P.S. Sections: 510–17, 510–20.

(B) The regulatory provisions include:

(1) Pennsylvania Code, Title 25, Part I, Subpart D, Article VI, Chapter 245 Administration of the Storage Tank and Spill Prevention Program, Sections: 245.202; 245.203(f); 245.303.

(2) Pennsylvania Code Title 25, Chapter 1021 Practice and Procedure, Sections: 1021.81; 1021.122.

(3) Pennsylvania Rules of Civil Procedure: 2326, 2327, 2328, 2329, 2330.

(iii) *Provisions not incorporated by reference.* With two exceptions, 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. These provisions are not federally enforceable. In addition to the broader in scope provisions, one provision in statutory definition of “Underground storage tank” and one in the regulatory definition of “Underground storage tank” are not part of the approved program and are not incorporated by reference herein. These provisions are also not federally enforceable:

(A) Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32, PS Sections: 6021.103 as to the definitions

of “Aboveground storage tank,” “Certified inspector,” “Small aboveground storage tank,” “Spill prevention and response plan,” “Stationary tank,” paragraph (13) of “Underground storage tank,” definitions of “Storage tank,” “Storage tank facility” and “Monitoring system” insofar as each definition includes aboveground storage tanks; paragraphs (1) and (2) of “Owner,” paragraph (3) of “Regulated substance;” 6021.105; 6021.106(b); 6021.108; 6021.110; 6021.301–306; 6021.501(a)(1), (a)(8), (a)(12), (a)(15), (c)(1), (c)(2) as to activities other than installation, (c)(3); 6021.502(a); 6021.503(a) as to fees and insofar as excludes tanks not excluded by the Federal program, (c); 6021.504; 6021.506–.507; 6021.701(a) insofar as includes aboveground storage tanks; 6021.702–.713; 6021.901–.904; 6021.1101–.1102, 6021.2101.

(B) Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs, Sections: 245.1 definitions of “Aboveground field constructed metallic storage tank,” “Aboveground manufactured metallic storage tank,” “Aboveground nonmetallic storage tank,” “Aboveground storage tank,” “Aboveground storage tank system,” “Certification categories,” “Certified company,” “Certified inspector,” “Certified installer” insofar as encompasses activities other than installation, “Environmental audit,” “In-service inspection,” “Large aboveground storage tank,” “Large aboveground storage tank facility,” “Nontank handling project activities,” “Out-of-service inspection,” subparagraphs (i) and (ii) of “Owner,” “Pressure vessel,” “Process vessel,” subparagraph (iii) of “Regulated substance,” “Responsible party” insofar as it includes persons who are not owners or operators of underground storage tanks, “Small aboveground storage tank,” “Spill prevention response plan,” “Stationary tank,” subparagraph (xvii) of “Underground storage tank,” “Underground vault,” and subparagraph (ii) of “Change-in-service,” “Consumptive use,” “Emergency containment,” “Monitoring system,” “Storage tank,” “Storage tank facility,” and “Storage tank system” insofar as each definition includes aboveground storage tanks; 245.21(a) insofar as includes aboveground storage tanks, (b), (c), and (d) insofar as references permits; 245.31(a) and (f) insofar as each requires tests or evaluations be performed by a Department-certified individual, (e); 245.41(a) and (e) insofar as each

requires payment of fees, (b) insofar as includes aboveground storage tanks and excludes tanks not excluded by the Federal program, (c)(7), (d); 245.42; 245.43; 245.101–.142 (Subchapter B); 245.201–.237 (Subchapter C); 245.305(g); 245.306(b)(3) and (d); 245.411(a) as to certified inspector; 245.422(b)(1)(ii) as to certified tank liner; 245.423; 245.424(2); 245.425(5); 245.434(1); 245.436(c)(5); 245.441(a)(3)(i) and (ii); 245.501–.562 (Subchapter F); 245.601–.618 (Subchapter G).

(2) *Statement of legal authority.* “Attorney General’s Statement” signed by the General Counsel and Attorney General on January 27, 2022, and February 14, 2022, respectively, 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 Adequate Enforcement Procedures” submitted as part of the program revision application for approval on March 24, 2022, 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 program revision application for approval on March 24, 2022, 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 3 and Pennsylvania Department of Environmental Protection, signed by the EPA Regional Administrator on April 25, 2019, 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. Amend appendix A by revising the entry for Pennsylvania to read as follows:

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

\* \* \* \* \*

Pennsylvania

(a) The statutory provisions include:

(1) Pennsylvania Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32.

35 P.S. Section 6021.101. Short title.

35 P.S. Section 6021.102. Legislative Findings.

35 P.S. Section 6021.103. Definitions, *except* “Aboveground storage tank,” “Certified inspector,” paragraphs (1) and (2) of “Owner,” paragraph (3) of “Regulated substance,” “Small aboveground storage tank,” “Spill prevention and response plan,” “Stationary tank,” paragraph (13) of “Underground storage tank,” and “Monitoring system,” “Storage tank,” and “Storage tank facility” insofar as each definition includes aboveground storage tanks.

35 P.S. Section 6021.109. Construction.

35 P.S. Section 6021.501. Underground storage tank requirements, *except* subparagraphs (a)(1), (a)(8), (a)(12), (a)(15), (c)(1), (c)(3), subparagraph (c)(2) as to activities other than installation.

35 P.S. Section 6021.502. Interim requirements and discontinued use, *except* paragraph (a).

35 P.S. Section 6021.503. Registration, *except* paragraph (a) as to fees and insofar as excludes tanks not excluded by the Federal program, paragraph (c).

35 P.S. Section 6021.701. Financial Responsibility, *except* paragraph (a) insofar as includes aboveground storage tanks.

35 P.S. Section 6021.2102. Saved from Repeal, *except* insofar as includes aboveground storage tanks.

35 P.S. Section 6021.2103. Severability.

35 P.S. Section 6021.2104. Repeals.

35 P.S. Section 6021.2105. Effective date.

(b) The regulatory provisions include: Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

Section 245.1. Definitions, *except* “Aboveground field constructed metallic tank,” “Aboveground manufactured metallic storage tank,” “Aboveground nonmetallic storage tank,” “Aboveground storage tank,” “Aboveground storage tank system,” “Certification categories,” “Certified company,” “Certified inspector,” “Certified installer” insofar as encompasses activities other than installation, “Environmental audit,” “In-service inspection,” “Out-of-service inspection,” subparagraphs (i) and (ii) of “Owner,” “Large aboveground storage tank,” “Large aboveground storage tank facility,” “Nontank handling project activities,” “Pressure vessel,” “Process vessel,” subparagraph (iii) of “Regulated substance,” “Responsible party” insofar as includes persons who are not owners or operators of underground storage tanks, “Small aboveground storage tank,” “Spill prevention response plan,” “Stationary tank,” subparagraph (xvii) of “Underground storage tank,” “Underground vault,” and subparagraph (ii) of “Change-in-service,” “Consumptive use,” “Emergency containment,” “Monitoring system,” “Storage tank,” “Storage tank facility,” and “Storage tank system” insofar as each definition includes aboveground storage tanks.

Section 245.2. General.

Section 245.21. Tank handling and inspection activities, *except paragraph (a) as to aboveground storage tanks, paragraphs (b)–(c), paragraph (d) as to permits.*

Section 245.31. Underground storage tank tightness testing requirements, *except paragraphs (a) and (f) insofar as each requires tests or evaluations be performed by a Department-certified individual, paragraph (e).*

Section 245.41. Tank Registration requirements, *except paragraphs (a) and (e) as to fees, paragraph (b) as to aboveground storage tanks and insofar as excludes tanks not excluded by the Federal program, paragraphs (c)(7) and (d).*

Section 245.301. Purpose.

Section 245.302. Scope.

Section 245.304. Investigation and reporting of suspected releases.

Section 245.305. Reporting releases, *except paragraph (g).*

Section 245.306. Interim remedial actions, *except paragraphs (b)(3) and (d).*

Section 245.307. Affected or diminished water supplies.

Section 245.308. Onsite storage of contaminated soil.

Section 245.309. Site characterization.

Section 245.310. Site characterization report.

Section 245.311. Remedial action plan.

Section 245.312. Remedial action.

Section 245.313. Remedial action completion report.

Section 245.314. Professional seals.

Section 245.401. Purpose.

Section 245.402. Scope.

Section 245.403. Applicability.

Section 245.404. Variances.

Section 245.405. Codes and Standards.

Section 245.411. Inspection frequency, *except paragraph (a) as to certified inspector.*

Section 245.421. Performance standards for underground storage tank systems.

Section 245.422. Upgrading of existing underground storage tank systems, *except subparagraph (b)(1)(ii) as to certified tank liner.*

Section 245.424. Standards for new field constructed tank systems, *except paragraph (2).*

Section 245.425. Reuse of removed tanks, *except paragraph (5).*

Section 245.431. Spill and overflow control.

Section 245.432. Operation and maintenance including corrosion protection.

Section 245.433. Compatibility.

Section 245.434. Repairs allowed, *except paragraph (1).*

Section 245.435. Reporting and recordkeeping.

Section 245.436. Operator training, *except paragraph (c)(5).*

Section 245.437. Periodic testing.

Section 245.438. Periodic operation and maintenance walkthrough inspections.

Section 245.441. General requirements for underground storage tank systems, *except subparagraphs (a)(3)(i) and (ii).*

Section 245.442. Periodic monitoring requirements for petroleum underground storage tank systems.

Section 245.443. Requirements for hazardous substance underground storage tank systems.

Section 245.444. Methods of release detection for tanks.

Section 245.445. Methods of release detection for piping.

Section 245.446. Release detection recordkeeping.

Section 245.451. Temporary removal from service (out-of-service).

Section 245.452. Permanent closure and changes-in-service.

Section 245.453. Assessing the site at closure or change-in-service.

Section 245.454. Applicability to previously closed underground storage tank systems.

Section 245.455. Closure records.

Section 245.701. Purpose.

Section 245.702. Scope.

Section 245.703. Owner or operator financial responsibility.

Section 245.704. General requirements.

Section 245.705. Owner and operator liability.

Section 245.706. Underground storage tanks not covered by USTIF.

Section 245.707. Coverage amounts for financial responsibility.

Section 245.708. Failure to maintain financial responsibility.

\* \* \* \* \*

[FR Doc. 2024–16058 Filed 7–23–24; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 240719–0200]

RIN 0648–BM90

#### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Fishing Year 2024 Recreational Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule implements changes to fishing year 2024 recreational management measures for Gulf of Maine (GOM) cod and GOM haddock. The measures are necessary to ensure the recreational fishery achieves, but does not exceed, fishing year 2024 catch limits for GOM cod and GOM haddock. Recreational measures for Georges Bank (GB) cod will remain unchanged in fishing year 2024.

**DATES:** This rule is effective July 24, 2024.

**ADDRESSES:** To review the **Federal Register** documents referenced in this rule, you can visit: [https://](https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan)

[www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan](https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan).

**FOR FURTHER INFORMATION CONTACT:** Mark Grant, Fishery Policy Analyst, (978) 281–9145.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Measures for the GOM

The recreational fishery for GOM cod and GOM haddock is managed under the Northeast Multispecies Fishery Management Plan (FMP). The multispecies fishing year starts on May 1 and runs through April 30 of the following calendar year. The FMP sets sub-annual catch limits (sub-ACL) for the recreational fishery each fishing year for both stocks. These sub-ACLs are a fixed proportion of the overall catch limit for each stock. The FMP also includes proactive recreational accountability measures (AM) to prevent the recreational sub-ACLs from being exceeded and reactive AMs to correct the cause, or mitigate the effects, of an overage if one occurs.

The proactive AM provision in the FMP provides a process for the Regional Administrator, in consultation with the New England Fishery Management Council (Council), to develop recreational management measures for the upcoming fishing year to ensure that the recreational sub-ACL is achieved, but not exceeded. The provisions governing this action can be found in the FMP's implementing regulations at 50 CFR 648.89(f)(3).

The 2024 recreational sub-ACL for GOM cod, established by Framework Adjustment 63 (87 FR 42375, July 15, 2022), is 192 metric tons (mt), and remains the same as the 2023 recreational sub-ACL. The 2024 recreational sub-ACL for GOM haddock, established by Framework Adjustment 66 (89 FR 35755, May 2, 2024), is 759 mt, which is a 4-percent reduction from the 2023 sub-ACL of 793 mt.

The proposed rule for this action (89 FR 43364, May 17, 2024) included information about the bio-economic model simulations that were shared with the Council, its Recreational Advisory Panel (RAP), and its Groundfish Oversight Committee (Committee). That information, and details about the Council, Committee, and RAP discussions, are not described further in this rule.

The RAP, the Committee, and the Council agreed on preferred measures and the Council formally recommended a suite of measures to NMFS on February 2, 2024. The Council recommended maintaining the GOM