

application of those requirements would be inconsistent with the Clean Air Act.

In addition, the delegation of authority is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The IDEQ did not evaluate environmental justice considerations as part of its submittal; the Clean Air Act and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of this action, it is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by October 1, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: July 25, 2024.

Casey Sixkiller,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 62 is amended as follows:

#### PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

- 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

#### Subpart N—Idaho

- 2. Add an undesignated center heading immediately before § 62.3110 and revise § 62.3110 to read as follows:

#### Air Emissions from Hospital/Medical/Infectious Waste Incinerators (HMIWI)—Section 111(d)/129 Plan

##### § 62.3110 Identification of plan—Idaho Department of Environmental Quality.

(a) *Delegation of authority.* On October 9, 2014, and November 7, 2014, the EPA and the IDEQ, respectively, signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to subpart HHH of this part (the “Federal Plan”) by which the Federal Plan will be administered by the Idaho Department of Environmental Quality (IDEQ).

(b) *Identification of sources.* The MOA and related Federal Plan apply to existing hospital/medical/infectious waste incinerators for which construction was commenced on or before December 1, 2008, or for which modification was commenced on or before April 6, 2010.

(c) *Effective date of delegation.* The delegation became fully effective on November 7, 2014, the effective date of the MOA between the EPA and the IDEQ.

[FR Doc. 2024–16952 Filed 8–1–24; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 282

[EPA–R01–UST–2023–0321; FRL–11752–02–R1]

### Massachusetts: 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 Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Massachusetts’ Underground Storage Tank (UST) program submitted by the Massachusetts Department of Environmental Protection (MassDEP). This action also codifies EPA’s approval of Massachusetts’ state program and incorporates by reference those provisions of the State statutes and regulations that we have 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 October 1, 2024, unless EPA receives adverse comment by September 3, 2024. If EPA receives adverse comments, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register, as of October 1, 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 online instructions for submitting comments.

2. *Email:* [coyle.joan@epa.gov](mailto:coyle.joan@epa.gov).

*Instructions:* Direct your comments to Docket ID No. EPA–R01–UST–2023–0321. 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 <https://www.regulations.gov> website is an “anonymous access” system, which means the 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 the 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 the notice for assistance.

**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. Certain other material, such as copyrighted material, might be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](https://www.regulations.gov) or in hard copy.

**IBR and supporting material:** The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Joan Coyle to schedule an appointment to view the documents at the EPA Region 1 Library, 5 Post Office Square, 1st floor, Boston, MA 02109–3912. The facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. For further information on

EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Joan Coyle, (617) 918–1303, [coyle.joan@epa.gov](mailto:coyle.joan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Approval of Revisions to Massachusetts’ Underground Storage Tank Program**

*A. Why are revisions to state programs necessary?*

States that have received final approval from the EPA under RCRA section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal UST program. Either EPA or the approved state may initiate program revision. When EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Program revision may be necessary when the controlling Federal or state statutory or regulatory authority is modified or when responsibility for the state program is shifted to a new agency or agencies.

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

On December 21, 2022, in accordance with 40 CFR 281.51(a), Massachusetts submitted a complete program revision application seeking EPA approval for its UST program revisions (State Application). Massachusetts’ 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 (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting 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 the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant State statutes and regulations. We have reviewed the State Application and determined that the revisions to Massachusetts’ UST program are equivalent to, consistent with, and no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that

the Massachusetts program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Massachusetts final approval to operate its UST program with the changes described in the program revision application, and as outlined below in section I.G. of this document.

*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 today’s rule are already effective in Massachusetts, and they are not changed by today’s 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 concurrent with a proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA is providing an opportunity for public comment now.

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

Along with this direct final, the 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 revision, providing opportunity for public comment. If EPA receives comments that oppose this approval, EPA will withdraw the direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the approval of the State program changes on the proposal to approve after considering all comments received during the comment period. EPA will then address all public comments 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 Massachusetts previously been approved?*

On March 17, 1995, effective April 17, 1995 (60 FR 14371), EPA approved the State’s UST program administered at that time by the Massachusetts Department of Fire Services (DFS). Effective December 30, 1996 (61 FR 56135), EPA codified the Massachusetts’ statutes and regulations comprising the State’s approved UST program, incorporating by reference those

approved 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.

The responsibility for administering the underground storage tank program was transferred to the Massachusetts Department of Environmental Protection (MassDEP), effective July 1, 2009. MassDEP adopted UST regulations (310 CMR 80.00) which became effective on

January 2, 2015. These maintained the basic requirements established by the DFS (Board of Fire Prevention Regulations 527 CMR 9.00) and authorized by EPA in 1995. On July 18, 2019, the EPA approved these Massachusetts UST program revisions, effective September 16, 2019.

*G. What changes are we approving with today's action?*

On December 21, 2022, in accordance with 40 CFR 281.51(a), Massachusetts

submitted a complete application for final approval of its UST program revisions, adopted on October 1, 2021. The EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Massachusetts' UST program revisions satisfy all the requirements necessary to qualify for final approval. Therefore, EPA grants Massachusetts final approval for the following program changes:

Required Federal element	Implementing State authority
40 CFR 281.30, New UST Systems and Notification.	310 CMR 80.14; 80.16; 80.17(1) and (2); 80.18; 80.21(1); 80.22; 80.23; 80.64; M.G.L. c.21O,§5.
40 CFR 281.31, Upgrading Existing UST Systems.	310 CMR 80.19; 80.21; 80.22; 80.64; M.G.L. c.21O,§5.
40 CFR 281.32, General Operating Requirements.	310 CMR 80.03; 80.10; 80.18; 80.22; 80.26; 80.27; 80.28; 80.29; 80.30; 80.31; 80.32; 80.33; 80.35; 80.36; 80.64; M.G.L. c.21O§5.
40 CFR 281.33, Release Detection .....	310 CMR 80.04; 80.19; 80.26; 80.31; 80.35; 80.64; M.G.L. c.21O, §5.
40 CFR 281.34, Release Reporting, Investigation, and Confirmation.	310 CMR 80.23; 80.26; 80.31(1)–(3); 80.32; 80.38(2); 80.39; 80.40; 80.64; M.G.L. c.21O,§5; M.G.L. c.21E §§3A, 5, 7, 8, 9.
40 CFR 281.35, Release Response and Corrective Action.	310 CMR 80.33; 310 CMR 80.38–80.40; 80.64.
40 CFR 281.36, Out-of-service Systems and Closure.	310 CMR 80.42; 80.43; 80.46; 80.47; 80.64.
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum.	310 CMR 80.04; 80.36; 80.52–80.57; 80.59–80.60; 80.64.
40 CFR 281.38, Lender Liability .....	No security interest exemption
40 CFR 281.39, Operator Training .....	310 CMR 80.37; 80.64
40 CFR 281.40, Requirements for Compliance Monitoring and Authority.	310 CMR 80.10; 80.13; M.G.L. c. 21O, §6
40 CFR 281.41, Requirements for Enforcement Authority.	310 CMR 80.48; 80.50; 310 CMR 5.00; M.G.L. c. 21O, §§7 and 8.

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. The MassDEP has broad statutory authority with respect to USTs to regulate installation, operation, maintenance, closure, and UST releases, and to the issuance of orders. These statutory authorities are found in: Massachusetts General Laws, Chapter 21O, Operation and Removal of Underground Storage Tanks; Massachusetts General Laws, Chapter 21E, Massachusetts Oil and Hazardous Material Release Prevention and Response Act; and Massachusetts General Laws, Chapter 21J, Underground Storage Tank Petroleum Product Cleanup Fund.

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

**Broader in Scope Provisions**

The following statutory and regulatory provisions are considered broader in scope than the federal program, and are therefore not enforceable as a matter of federal law:

The Owner or Operator of an underground storage tank used for the keeping or storage of flammable or

combustible fluids may need to obtain a permit from the fire department in which the UST system is located for closure or relocation of the UST system. It is the responsibility of the Owner or Operator to obtain any required permit(s).

Owners and operators of UST systems containing low level radioactive waste or its mixture with hazardous waste regulated by the Nuclear Regulatory Commission and the Department of Public Health must ensure that the UST systems will prevent releases due to corrosion or structural failure, be cathodically protected against corrosion, be constructed of non-corrodible material, and be constructed or lined with material that is compatible with the stored regulated substance.

Massachusetts requires that consumptive use (CU) tanks of 1,100 gallons or less must comply with release response requirements and, if installed on and after March 21, 2008, be double walled and equipped with continuous interstitial monitoring. Consumptive use tanks greater than 1,100 gallons installed on and after January 1, 1989 must comply with most of the regulatory requirements, except

registration and fill pipe cover requirements. If CU tanks greater than 1,100 gallons were installed before January 1, 1989, they must meet most requirements except those for installation, leak detection, tank specifications, and corrosion protection.

Farm and residential tanks having a capacity of 1,100 gallons or less used exclusively for the storage of motor fuel must be double walled and must comply with release response requirements.

UST systems used solely for emergency spill or overflow containment of a regulated substance installed on or after January 1, 1989, must be double walled, protected from corrosion, comply with registration and release response requirements, and be emptied within 72 hours of introduction of product.

Owners or operators must maintain, until the UST system is removed or permanently closed in place, a scaled drawing or set of as-built plans of all UST systems prepared by the installer or a registered professional engineer, with specific information, and must submit a copy of the as-built plans to the Department.

Owners and operators of UST systems are required to hire certified Third-Party Inspectors (TPIs) to conduct compliance inspections of those systems every three years. MassDEP's TPI Certification Program requires that qualified individuals must pass a written exam and meet certain minimum eligibility requirements, are certified for five years, and need to apply for renewal at least 90 days before their current certifications expire.

Owners or operators of all UST systems must submit a performance-based compliance certification to the Department in accordance with the *Environmental Results Program Certification* requirements.

Massachusetts requires that an owner or operator hire a Licensed Site Professional (LSP) to work on their behalf to oversee the assessment and cleanup of contaminated properties. Massachusetts provisions that are broader in scope than the federal program are not incorporated by reference and are not part of the federally-approved program.

#### More Stringent Provisions

The following statutory and regulatory provisions are considered more stringent than the federal program and are therefore enforceable as a matter of federal law:

All single-walled steel tanks in-service and temporarily out-of-service must be permanently closed and removed from the ground, or be permanently closed in-place, by August 7, 2017, except for consumptive use tanks, and tanks that were relined prior to August 8, 2007.

Groundwater monitoring is not permitted as a form of release detection.

After January 2, 2017, owners and operators may no longer use soil vapor monitoring as a primary form of release detection.

Regulated substance dispensers installed, repaired, or replaced on or after March 21, 2008 must be equipped with a dispenser sump that is continuously monitored with a dispenser sump sensor.

All turbine sumps, including intermediate sumps, shall be continuously monitored for liquids utilizing a sump sensor.

Turbine, intermediate, and dispenser sumps must pass a tightness test at installation to ensure the sump is liquid tight.

All high-level alarms installed on and after January 2, 2015 must be visible and audible, and be clearly labeled as a tank overflow alarm.

Owners or Operators shall inspect and test the overflow prevention equipment

annually to ensure that it is operational and will activate at the correct level.

Massachusetts requires all UST systems, regardless of the amount of regulated product received at one time, to have a spill bucket. Spill buckets must be at least five gallons in capacity, if installed after January 2, 2015. If installed before that date, must have a minimum capacity of three gallons. Spill buckets must pass a tightness test at installation.

All submersible pumps that do not have a turbine containment sump shall be visually inspected every 30 days.

Single-walled and double-walled sumps without continuous monitoring sensors in the sump must be inspected every 90 days.

Impressed current cathodic protection systems must be tested every 12 months.

All cathodic protection systems must be tested within 60 days of a repair.

Owners or operators of regulated tanks that are not double-walled and do not have continuous monitoring must conduct daily and monthly inventory monitoring, with the exception of emergency generator tanks installed before January 2, 2015.

Financial responsibility must be maintained and demonstrated for UST systems containing hazardous substances.

When an UST system is taken temporarily out of service, all regulated substances must be removed from the tank and the UST rendered inert. Vent lines must be kept open and functioning and all other lines capped, locked, and secured.

## II. Codification

### A. What is codification?

Codification is the process of placing a state's statutes and regulations that comprise the state's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of state programs in 40 CFR part 282 and incorporates by reference state regulations that the 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 Massachusetts' UST program?

EPA incorporated by reference the Massachusetts DFS approved UST program effective December 30, 1996 (61 FR 56135; October 31, 1996). In this document, EPA is revising 40 CFR 282.71 to include the approval revision actions.

### C. What codification decisions have we made in this rule?

*Incorporation by reference:* In this rule, we are finalizing the Federal regulatory text that incorporates by reference the federally authorized Massachusetts UST Program. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the Massachusetts statutes and regulations described in the amendments to 40 CFR part 282 set forth below. The EPA has made, and will continue to make, this document generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 1 office (see the **ADDRESSES** section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Massachusetts' approved UST program. The codification reflects the State program in effect at the time EPA's approved revisions to the Massachusetts UST program addressed in this direct final rule become final. The document incorporates by reference Massachusetts' UST statutes and regulations and clarifies which of these provisions are included in the approved and federally enforceable program. By codifying the approved Massachusetts program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Massachusetts program.

EPA is incorporating by reference the Massachusetts approved UST program in 40 CFR 282.71. Section 282.71(d)(1)(i)(A) incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.71 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.

### D. What is the effect of Massachusetts' 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. With respect to these actions, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Massachusetts procedural and enforcement authorities. Section 282.71(d)(1)(ii) of 40 CFR lists those approved Massachusetts 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. Such 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 provisions that are broader in scope than the federal program, those provisions are not a part of the federally approved program. 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 282.71(d)(1)(iii) of the codification simply lists for reference and clarity the Massachusetts 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. 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.

### III. Statutory and Executive Order Reviews

This action only applies to Massachusetts' UST Program requirements pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable Executive Orders (EOs) and statutory provisions as follows:

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*

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, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). As discussed above, EPA is not acting on approval to operate the State's UST program as it applies to Tribal lands in the State. Therefore, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

*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 October 1, 2024 because it is a direct final rule.

#### 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, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Water supply.

David W. Cash,

Regional Administrator, EPA Region 1.

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 § 282.2 by revising and republishing the introductory text of paragraph (b) and paragraph (b)(1) to read as follows:

#### § 282.2 Incorporation by reference.

\* \* \* \* \*

(b) Copies of materials incorporated by reference may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this

material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/crf/ibr-locations](http://www.archives.gov/federal-register/crf/ibr-locations). Copies of materials incorporated by reference may be obtained or inspected at the EPA UST Docket, located at 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202 (telephone number: 703–603–9231), or send mail to Mail Code 5305G, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and at the library of the appropriate Regional Office listed below:

(1) Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): 5 Post Office Square, 1st floor, Boston, MA 02109–3912; Phone Number: (617) 918–1303.

\* \* \* \* \*

■ 3. Revise and republish § 282.71 to read as follows:

#### § 282.71 Massachusetts State-Administered Program.

(a) 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 Environmental Protection (MassDEP), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this Chapter. EPA approved the Massachusetts program on March 3, 1995, which was effective on April 17, 1995.

(b) Massachusetts 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, as well as under any other applicable 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 makes 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 notification of any change will be published in the **Federal Register**.

(d) Massachusetts has final approval for the following elements of its program application originally

submitted to EPA and approved effective April 17, 1995, and the program revision application approved by EPA, effective on October 1, 2024.

(1) *State statutes and regulations.*

(i) *Incorporation by reference.* The material cited in this paragraph, and listed in appendix A to part 282, is incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the Massachusetts regulations and statutes that are incorporated by reference in this paragraph from the State Bookstore, State House, Room 116, Boston, MA 02133; phone number: (617) 727–2834; Hours: Monday–Friday, 8:45 a.m. to 5:00 p.m.; website: <https://www.sec.state.ma.us/divisions/bookstore/agencies/310-environmental-protection.htm>.

(A) “EPA Approved Massachusetts Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, March 2024.”

(B) [Reserved]

(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) Massachusetts General Laws, Chapter 21A, *Executive Office of Energy and Environmental Affairs*, section 16, Civil Administrative Penalties.

(2) Massachusetts General Laws, Chapter 21E, *Massachusetts Oil and Hazardous Material Release Prevention and Response Act (2014)*, sections 4 through 6, 8 through 12 and 15 through 18.

(3) Massachusetts General Laws, Chapter 21J, *Underground Petroleum Product Cleanup Fund*, sections 11 through 14.

(4) Massachusetts General Laws, Chapter 21O, *Operation and Removal of Underground Storage Tanks*, section 4, sections 6 through 9.

(B) The regulatory provisions include:

(1) Code of Massachusetts Regulations, 310 CMR 80, *Underground Storage Tank (UST) Systems*; 80.11, Submittals to the Department; 80.12 Presumption of Irreparable Harm; 80.13, Department Access to UST Facilities and Records; 80.48, Delivery Prohibition; 80.50, Enforcement and Appeals.

(2) Code of Massachusetts Regulations, 310 CMR 40, *Massachusetts Contingency Plan*: 40.0010, Effect of Orders and Appeals;

40.0011, Confidentiality of Information; 40.0013, Presumption of Irreparable Harm; 40.0019, Violations of Environmental Restrictions; 40.0020, Violations of a Permanent Solution or Temporary Solution; 40.0021, Unlawful Interference with Response Actions; 40.0050, Appeals of Orders and Permits; 40.0051, Appeals Relative to Administrative Penalties; 40.0160, Departmental Notice to Responsible Parties and Potentially Responsible Parties; 40.0165, Department Request for Information (RFI); 40.0166, Department Right of Entry; 40.0171, Failure to Perform a Response Action.

(iii) *Provisions not incorporated by reference.*

The following specifically identified statutory and regulatory provisions applicable to the Massachusetts' UST program 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) *Massachusetts General Laws, Chapter 21E: Massachusetts Oil and Hazardous Material Release Prevention and Response Act*, sections 3A, 3B, sections 13, 14, and 19 through 22; *Chapter 21J: Underground Petroleum Product Cleanup Fund*, sections 1 through 10; *Chapter 21O: Operation and Removal of Underground Storage Tanks*, section 1, Removal or relocation of underground flammable or combustible fluid tanks; permits; abandoned underground residential tanks;

(B) *Code of Massachusetts Regulations, Title 310 CMR Chapter 80, Underground Storage Tank Systems: General Provisions section, Applicability, 80.04(6)(c), (8) through (12); Design, Construction And Installation Requirements section, Installation requirements, 80.16(7); Specifications for Tanks, 80.17(3); Requirements for Turbine, Intermediate and Dispenser Sumps, 80.20(6); Requirements for Spill Buckets and Overfill Prevention Equipment, 80.21(1)(d); General Operating Requirements section, Requirements for Registration and Reporting, 80.23(1)(b)(2); Requirements for a UST System or UST Component Emergency Response, 80.25; Requirements for Compliance Certification section, 80.34; Change-In-Product, Out Of Service Systems And Closure section, Requirements for Removal and permanent Closure In-place, 80.43(7); Third Party Inspections section, 80.49; 310 CMR Chapter 40, Massachusetts Contingency Plan: Subpart B: Organization and Responsibilities, The Role of Licensed Site Professionals*

section, 40.0169; and other provisions of Chapter 40.0000 Subparts A–P 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.

(2) *Statement of Legal Authority.* The Attorney General's Statements, signed by the Attorney General of Massachusetts on August 18, 1993, March 2, 2017, and December 13, 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.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application on October 5, 1992, and as part of the program revision applications for approval on June 21, 2017 and December 21, 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 original application on October 5, 1992, and as part of the program revision applications on June 21, 2017 and December 21, 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.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 1 and the Massachusetts Department of Environmental Protection, signed by the EPA Regional Administrator on November 21, 2018 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. Appendix A to part 282 is amended by revising the entry for Massachusetts as follows:

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

\* \* \* \* \*

Massachusetts

(a) The statutory provisions include: Massachusetts General Laws, Part I, Title II  
1. Chapter 21E, *Massachusetts Oil and Hazardous Material Release Prevention and Response Act*

*Section 1:* Short title; section 2: Definitions; section 3: Implementation;

regulations; response actions; section 7: Notice of release or threat of release.

2. Chapter 21O, *Operation and Removal of Underground Storage Tanks*

*Section 2:* Notification of operation of underground storage tanks; definitions; section 3: Notification of operation of underground storage tanks; requirements; exceptions; section 5: Notification of operation of underground storage tanks; regulations for requirements and standards of tanks;

(b) The regulatory provisions include:  
1. *Code of Massachusetts Regulations, Title 310 CMR Chapter 80, Underground Storage Tank Systems:* (effective October 1, 2021)

General Provisions section, 80.01: Authority; 80.02: Purpose; 80.03: Definitions; 80.04: Applicability, (1) through (13), except (6)(c), and (8) through (12); 80.05: Rules of Construction; 80.06: Computation of Time; 80.07: Accurate and Timely Submittals to the Department and Record Keeping; 80.08: Accurate and Complete Record Keeping; 80.09: Accurate Monitoring; 80.10: Duty to Provide Information.

Design, Construction, and Installation Requirements section, 80.14: General Requirements; 80.15: General Prohibitions; 80.16: Installation Requirements, except (7); 80.17: Specifications for Tanks, except (3); 80.18: Specifications for Regulated Substance Piping; 80.19: Leak Detection; 80.20: Requirements for Turbine, Intermediate and Dispenser Sumps, except (6); 80.21: Requirements for Spill Buckets and Overfill Prevention Equipment, except (1)(d); 80.22: Requirements for Corrosion Protection.

General Operating Requirements section, 80.23: Requirements for Registration and Reporting, except (1)(b) 2; 80.24: General Requirements; 80.26: Requirements for Leak Detection Systems; 80.27: Requirements for Turbine, Intermediate and Dispenser Sumps; 80.28: Requirements for Spill Buckets and Overfill Prevention Equipment; 80.29: Requirements for Corrosion Protection; 80.30: Requirements for Compatibility; 80.31: Requirements for Inventory Monitoring; 80.32: Requirements for Tank and Pipe/Line Tightness Testing; 80.33: Requirements for Repairs and Replacements; 80.35: Requirements for Periodic Inspections, except (2)(c); 80.36: Requirements for Recordkeeping;

Operator Training section, 80.37: Class A, B, and C Operator Requirement and Certifications

Leakage and Release: Response, Reporting and Remediation section, 80.38: Response to a Release; 80.39: Response to Leakage; 80.40: Reportable Releases.

Change-In-Product, Out of Service Systems and Closure section, 80.41: Requirements for Change-in-product; 80.42: Requirements for Taking a UST System Temporarily Out-of-service; 80.43: Requirements for Removal and Permanent Closure In-place, except (7); 80.44: Requirements for a Tank within a Tank; 80.45: UST Systems Temporarily Out-of-service for over Five Years; 80.46: Requirements for Previously Closed-in-place UST Systems; 80.47: Standards for Cleaning and Closure.

Financial Responsibility section, 80.51: Definitions; 80.52: Requirements for Amount



and Scope of Financial Responsibility; 80.53: Allowable Mechanisms and Combinations of Mechanisms; 80.54: Requirements for Financial Responsibility Mechanisms; 80.55: Requirements for a Standby Trust; 80.56: Substitution of Financial Assurance Mechanisms by Owner or Operator; 80.57: Cancellation or Nonrenewal by a Provider of Financial Assurance; 80.58: Requirements for Reporting by Owner or Operator; 80.59: Requirements for Recordkeeping; 80.60: Requirements for Drawing on Financial Assurance Mechanisms; 80.61: Release from Financial Responsibility Requirements; 80.62: Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance; 80.63: Requirements for Replenishment of Local Government Guarantees, Letters of Credit, or Surety Bonds.

Requirements for Airport Hydrant Fuel Distribution Systems section, 80.64: Requirements for Airport Hydrant Fuel Distribution Systems.

2. *Code of Massachusetts Regulations, Title 310 CMR 40: Massachusetts Contingency Plan* (effective March 1, 2024) only insofar as they pertain to the regulation of underground storage tanks in Massachusetts and only insofar as they are incorporated by reference and 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:

Subpart A: General Provisions, except 40.0010 through 40.0013, 40.0016 through 40.0021, and 40.0030 through 40.0070; Subpart B: Organization and Responsibilities, except 40.0160 through 40.0171; Subpart C: Notification of Releases and Threats of Release of Oil and Hazardous Material; Identification and Listing of Oil and Hazardous Material; Subpart D: Preliminary Response Actions and Risk Reduction Measures.

(c) Official copies of 310 CMR 80.00, the Massachusetts regulations that are incorporated by reference, are available at: State Bookstore, State House, Room 116, Boston, MA 02133; Phone number: 617-727-2834; Hours: Monday-Friday, 8:45 a.m. to 5:00 p.m.; website: <https://www.sec.state.ma.us/divisions/bookstore/agencies/310-environmental-protection.htm>.

\* \* \* \* \*

[FR Doc. 2024-16812 Filed 8-1-24; 8:45 am]

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## GENERAL SERVICES ADMINISTRATION

### 48 CFR Part 570

[GSAR Case 2024-G503; Docket No. 2024-0014; Sequence No. 1]

RIN 3090-AK82

### General Services Administration Acquisition Regulation; GSAR Case 2024-G503; Updates to References to GSA Sustainable Leasing

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** General Services Administration (GSA) is issuing this final rule amending the General Services Administration Acquisition Regulation (GSAR) to update sustainable leasing requirement language.

**DATES:** Effective September 3, 2024.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Adina Torberntsson, GSA Acquisition Policy Division, GSA Acquisition Policy Division, at [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov) or 720-475-0568. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755 or [GSARegsec@gsa.gov](mailto:GSARegsec@gsa.gov). Please cite GSAR Case 2024-G503.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The General Services Administration (GSA) conducts routine reviews of its acquisition regulations to identify outdated content and to ensure information referenced within the General Services Administration Acquisition Regulation (GSAR) is current.

GSA discovered that the GSAR guidance on sustainable leasing is outdated because it references Executive Order (E.O.) 13514, Federal Leadership in Environmental, Energy, and Economic Performance, which was revoked on March 19, 2015, with the publication of E.O. 13693, Planning for Federal Sustainability in the Next Decade.

E.O. 13963 was in turn revoked on May 17, 2018, with the publication of E.O. 13834, Efficient Federal Operations. E.O. 13834 was then revoked by E.O. 14057, Executive Order on Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, issued on December 13, 2021.

Regardless of specific E.O. requirements, GSA leasing has a long history adopting sustainable practices and intends to continue adopting sustainable practices. To maintain this intent, references to E.O.s will be removed and replaced with the word “sustainability.”

The previous language also included an expired website; a working website link has been included.

Small editorial changes have also been made to the text to increase readability.

## II. Publication of This Final Rule for Public Comment Is Not Required By Statute

The statute that applies to the publication of the GSAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This rule is not required to be published for public comment because GSA is not issuing a new regulation; rather, this rule removes expired E.O. references and making editorial updates for readability purposes.

## III. Executive Order 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and Review) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has determined that this is not a significant regulatory action and, therefore, is not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

## IV. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a “major rule” may take effect, the agency promulgating the rule must submit a rule report, which