



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA-R10-UST-2019-0363; FRL-10003-28-Region 10]

Idaho: 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 Idaho's Underground Storage Tank (UST) program submitted by the State. The EPA has determined that these revisions satisfy all requirements needed for program approval. This action also codifies the EPA's approval of Idaho's state program and incorporates by reference those provisions of the State's regulations that we have determined meet the requirements for approval. The State's federally-authorized and codified UST program, as revised pursuant to this action, will remain subject to the 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 [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the EPA receives adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If EPA receives adverse comment, 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 certain publications listed in the regulations is approved by the Director of the

Federal Register, as of [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], 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: wilder.scott@epa.gov.
3. Mail: Scott Wilder, Region 10, Enforcement and Compliance Assurance Division (ECAD 20-CO4), EPA Region 10, 1200 6th Avenue, Suite 155, Seattle, Washington 98101-3123.
4. Hand Delivery or Courier: Deliver your comments to Scott Wilder, Region 10, Office of Compliance and Enforcement (OCE), EPA Region 10, 1200 6th Avenue, Suite 155, Seattle, Washington 98101-3123.

Instructions: Submit your comments, identified by Docket ID No. EPA-R10-UST-2019-0363, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

You can view and copy the documents that form the basis for this action and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 10, 1200 6th Avenue, Suite 155, Seattle, Washington 98101-3123, phone number (206) 553-6693. Interested persons wanting to examine these documents should make an appointment with the office at least 2 days in advance.

FOR FURTHER INFORMATION CONTACT: Scott Wilder, (206) 553-6693, wilder.scott@epa.gov. To inspect the hard copy materials, please schedule an appointment with Scott Wilder at (206) 553-6693.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Idaho’s Underground Storage Tank Program

A. Why are revisions to state programs necessary?

States which 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 underground storage tank program. When the 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. Most commonly, states must change their programs because of changes to the EPA’s regulations in 40 Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their underground storage tank program and these changes must then be approved by the EPA.

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

On September 19, 2018, in accordance with 40 CFR 281.51(a), Idaho submitted a complete program revision application seeking the EPA approval for its UST program revisions (State Application). Idaho'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 (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter from the Governor 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 the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all applicable state statutes and regulations. We have reviewed the State Application and determined that the revisions to Idaho's 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 Idaho program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Idaho 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 action on the regulated community?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already in effect in the State of Idaho, and 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?

The EPA is publishing this direct final rule without a prior proposed rule because we

view this as a noncontroversial action and we anticipate no adverse comment. Idaho did not receive substantial comments during its comment period when the rules and regulations being considered in this direct final rule were proposed at the state level.

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

Along with this direct final rule, 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 revisions, and provides an opportunity for public comment. If the EPA receives comments that oppose this approval, the EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before it becomes effective. The EPA will make any further decision on approval of the State Application after considering all comments received during the comment period. The 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 Idaho previously been approved?

On February 28, 2012, the EPA finalized a rule approving the UST program that Idaho proposed to administer in lieu of the Federal UST program.

G. What changes are we approving with this action and what standards do we use for review?

In order to be approved, each state program application must meet the general requirements in 40 CFR 281.11, and specific requirements in 40 CFR part 281, subpart B (Components of a Program Application); subpart C (Criteria for No Less Stringent); and subpart D (Adequate Enforcement of Compliance). This also is true for proposed revisions to approved state programs.

As more fully described below, the State has made the changes to its approved UST

program to reflect the 2015 Federal Revisions. The EPA is approving the State's changes because they are equivalent to, consistent with, and no less stringent than the Federal UST program and because the EPA has confirmed that the Idaho UST program will continue to provide for adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D, after this approval.

The Idaho Department of Environmental Quality (DEQ) is the lead implementing agency for the UST program in Idaho, except in Indian country.

The DEQ continues to have broad statutory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases under Idaho Code, Title 39, Chapter 88, Idaho Underground Storage Tank Act, Sections 39-8801 through 39-8813. The Idaho UST Program gets its enforcement authority from the powers and duties of the DEQ Director (Director) found in Title 39, Chapter 1, Section 39-108. Under Title 39, Chapter 1, Sections 39-108 and Chapter 88, Section 39-8805, the Director is authorized to require an owner to furnish records, conduct monitoring or testing, and provide access to tanks. Penalties for non-compliance with Idaho's Underground Storage Tank Act may be assessed under Title 39, Chapter 1, Sections 39-108(5) and 39-8811. Under Idaho Administrative Code (IDAPA) 58.01.07.500, a delivery prohibition tag may be placed on a tank for failure to install required spill prevention, overfill protection, leak detection, or corrosion protection equipment.

Specific authorities to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases are found in IDAPA 58.01.07, Rules Regulating Underground Storage Tank Systems, as amended effective March 24, 2017, and Rules of Administrative Procedure Before the Board of Environmental Quality are found under IDAPA 58.01.23. Compliance monitoring authorities are found under IDAPA 58.01.07.400, as amended March 24,

2017. The aforementioned statutory sections and regulations satisfy the requirements of 40 CFR 281.40 and 281.41. Idaho has met the public participation requirements found in 40 CFR 281.42 by allowing intervention in the state enforcement process as provided in the Idaho Rules of Civil Procedure Rule 24(a).

To qualify for final approval, revisions to a state's program must be "equivalent to, consistent with, and no less stringent" than the 2015 Federal Revisions. In the 2015 Federal Revisions the EPA addressed UST systems deferred in the 1988 UST regulations, and added, among other things, new operation and maintenance requirements; secondary containment requirements for new and replaced tanks and piping; operator training requirements; and a requirement to ensure UST system compatibility before storing certain biofuel blends. In addition, the EPA removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems. The EPA analyzes revisions to approved state programs pursuant to the criteria found in 40 CFR 281.30 through 281.39.

The DEQ has revised its regulations to help ensure that the State's UST program revisions are equivalent to, consistent with, and no less stringent than the 2015 Federal Revisions. IDAPA 58.01.07.004 incorporates by reference the requirements of 40 CFR part 280, including the requirements added by the 2015 Federal Revisions, excepting 40 CFR part 280, subpart J (Operator Training), and provisions such as the definitions of "Replaced" and "Under-dispenser containment," recordkeeping requirements for operator training, and certain limiting date ranges. The State, therefore, has ensured that the criteria found in 40 CFR 281.30 through 281.38 are met.

Title 40 CFR 281.39 describes the state operator training requirements that must be met in order to be considered no less stringent than Federal requirements. Idaho did not incorporate

by reference Federal requirements for operator training, and has promulgated and is implementing its own operator training provisions under IDAPA 58.01.07.300. After a thorough review, the EPA has determined that Idaho's operator training requirements are equivalent to, consistent with, and no less stringent than Federal requirements.

As part of the State Application the Idaho Attorney General certified that the State revisions meet the "no less stringent" criteria in 40 CFR 281.30 through 281.39. The EPA is relying on this certification in addition to the analysis submitted by the State in making its determination.

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 statutory and regulatory requirements are considered broader in coverage than the Federal program as these state-only regulations are not required by Federal regulation and are implemented by the State in addition to the federally-approved program:

IDAPA 58.01.07.100 requires secondary containment and monitoring of any UST system, including tanks, pipes, and dispensers, installed or replaced after February 23, 2007, that is within

1,000 feet of a potable drinking water source. IDAPA 58.01.07.010.16 requires secondary containment and monitoring of replaced piping if 100% of the piping, excluding connectors,

connected to a single UST is replaced in accordance with section 9003(i)(1) of the Solid Waste Disposal. IDAPA 58.01.07.100 requires owners and/or operators to provide written notice to the DEQ 30 days prior to installing a new piping system or a new or replacement UST and provide 24-hour notice to the DEQ prior to installing a replacement piping system. IDAPA 58.01.07.600 requires the DEQ to maintain a public database providing details on the status of all USTs subject to regulation in Idaho. IDAPA 58.01.07.601 requires all regulated USTs to pay annual fees. IDAPA 58.01.07.200 requires owners or operators to report the source and cause of a release to the DEQ.

More Stringent Provisions

Where an approved state program includes requirements that are considered more stringent than required by Federal law, the more stringent requirements become part of the federally-approved program (40 CFR 281.12(a)(3)). IDAPA 58.01.07.004.04 specifies that the State's rules "shall be no more stringent than federal law or regulations governing underground storage tank systems."

I. How does this action affect Indian country (18 U.S.C. 1151) in Idaho?

The EPA's approval of Idaho's Program does not extend to Indian country as defined in 18 U.S.C. 1151. Indian country generally includes lands within the exterior boundaries of the following Indian reservations located within Idaho: Coeur D'Alene Tribe, Kootenai Tribe of Idaho, Nez Perce Tribe, Shoshone-Bannock Tribes of the Fort Hall Reservation; any land held in trust by the United States for an Indian tribe; and any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151. Any lands removed from an Indian reservation status by Federal court action are not considered reservation lands even if located within the exterior boundaries of

an Indian reservation. The EPA will retain responsibilities under RCRA for underground storage tanks in Indian country. Therefore, this action has no effect in Indian country. 40 CFR 281.12(a)(2).

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 codification decisions have we made in this rule?

In this rule, we are finalizing the Federal regulatory text that incorporates by reference the federally-authorized Idaho UST Program. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the Idaho rules described in the amendments to 40 CFR part 282 set forth below. The EPA has made, and will continue to make,

these documents generally available through <https://www.regulations.gov> and at the EPA Region 10 office (see the **ADDRESSES** section of this preamble for more information).

One purpose of this **Federal Register** document is to codify Idaho's approved UST program. The codification reflects the State program that would be in effect at the time the EPA's approved revisions to the Idaho UST program addressed in this direct final rule become final. If, however, the EPA receives substantive comment on the proposed rule then this codification will not take effect, and the State rules that are approved after the EPA considers public comment will be codified instead. By codifying the approved Idaho program and by amending the Code of Federal Regulations (CFR), the public will more easily be able to discern the status of the federally-approved requirements of the Idaho program.

The EPA is incorporating by reference the Idaho approved UST program in 40 CFR 282.62. Section 282.62(d)(1)(ii)(B) incorporates by reference for enforcement purposes the State's relevant statutes and regulations. Section 282.62 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.

C. What is the effect of EPA's codification of the federally-authorized State UST Program on enforcement?

The EPA retains the authority under sections 9003(h), 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved States. If the EPA determines it will take such actions in Idaho, the EPA will

rely on Federal sanctions, Federal inspection authorities, and other Federal procedures rather than the State analogs. Therefore, though the EPA has approved the State procedures listed in 40 CFR 282.62(d)(1)(ii), the EPA is not incorporating by reference Idaho's procedural and enforcement authorities.

D. 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 coverage" than subtitle I of RCRA. Title 40 CFR 281.12(a)(3)(ii) states that where a state operates an approved program with a greater scope of coverage than the Federal program, those provisions creating greater coverage are not a part of the federally-approved program. As a result, State provisions which are "broader in coverage" than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Title 40 CFR 282.62(d)(1)(iii) lists for reference and clarity the Idaho statutory and regulatory provisions which are "broader in coverage" than the Federal program and which are not, therefore, part of the approved program being codified in this rule. Provisions that are "broader in coverage" cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order (EO) Reviews

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

A. Executive Order 12866 Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and 13563 (76 FR 3821, Jan. 21, 2011). 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 is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this final approval of Idaho's revised underground storage tank program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Unfunded Mandates Reform Act and 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). For the same reason, 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).

D. 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, Aug. 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.

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

This action also is not subject to Executive Order 13045 (62 FR 19885, Apr. 23, 1997), because it is not economically significant, as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

F. 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.

G. National Technology Transfer and Advancement Act

Under RCRA section 9004(b), the 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 the 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 National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

H. Executive Order 12988: Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

I. Executive Order 12630: Governmental actions and interference with constitutionally

protected property rights

The EPA has complied with Executive Order 12630 (53 FR 8859, Mar. 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order.

J. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). “Burden” is defined at 5 CFR 1320.3(b).

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

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision 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 and low-income populations in the United States. Because this rule approves pre-existing state rules which are at least equivalent to, consistent with, and 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, the rule is not subject to Executive Order 12898.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, 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 **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]** because it is a direct final rule.

Authority: This rule is issued under the authority of Sections 2002(a), 7004(b), and 9004, 9005 and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), and 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Hazardous substances,
Incorporation by reference, State program approval, Underground storage tanks.

Dated: November 27, 2019.

Chris Hladick,
Regional Administrator,
EPA Region 10.

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. Add § 282.62 to read as follows:

§ 282.62 Idaho State-Administered Program.

(a) *History of the approval of Idaho's Program.* The State of Idaho 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 Idaho Department of Environmental Quality (DEQ), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA published the notice of final determination approving the Idaho underground storage tank base program effective on February 28, 2012. A subsequent program revision application was approved by EPA and became effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

(b) *Enforcement authority.* Idaho has primary responsibility for administering and enforcing its federally-approved underground storage tank program. However, the EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, Idaho must revise its approved program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281,

subpart E. If Idaho 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) *Final approval*. Idaho has final approval for the following elements of its program application originally submitted to EPA and approved, effective February 28, 2012, and the program revision application approved by EPA effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**:

(1) *State statutes and regulations--(i) Incorporation by reference*. The materials cited in this paragraph (d)(1) are incorporated by reference as part of the underground storage tank program under 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. You may obtain copies of the Idaho provisions that are incorporated by reference in this paragraph (d)(1)(i) from Idaho's Office of Administrative Rules Coordinator, P.O. Box 83720, Boise, Idaho 83720; Phone number: 208-332-1820; Website: <https://adminrules.idaho.gov/>. You may inspect all approved material at the EPA Region 10 office, 1200 Sixth Avenue, Seattle, Washington 98101, phone number (206) 553-6693, or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations>.

(A) Idaho Statutory Requirements Applicable to the Underground Storage Tank Program, September 2018.

(B) Idaho Regulatory Requirements Applicable to the Underground Storage Tank Program, September 2018.

(ii) *Legal basis.* The EPA evaluated the following statutes and regulations which provide the legal basis for the State’s implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Idaho Code*, Title 39, “Health and Safety,” Chapter 1, “Environmental Quality--Health,” Sections 39-108 and -109.

(2) *Idaho Code*, Title 39, “Healthy and Safety,” Chapter 88, “Idaho Underground Storage Tank Act.” The following Sections are part of the approved State program, although not incorporated by reference in this part for enforcement purposes: Sections 39-8805, -8808, -8810, and -8811.

(B) The regulatory provisions include:

(1) *Idaho Administrative Code* 58 (April 1, 2018), Title 01, Chapter 02, “Water Quality Standards,” Sections 851 and 852.

(2) *Idaho Administrative Code* 58 (April 1, 2018), Title 01, Chapter 07, “Rules Regulating Underground Storage Tank Systems.” The following Sections are part of the approved State program, although not incorporated by reference in this part for enforcement purposes: Sections 004.01, 400.01 and .03, 500, and 600.

(3) *Idaho Rules of Civil Procedure*, Rule 24(a).

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Idaho underground storage tank program that are broader in coverage than the Federal program, are not part of the approved program, and are not incorporated by reference in this part for enforcement purposes:

(A) Idaho Administrative Code 58 (April 1, 2018), Title 01, Chapter 07, “Rules Regulating Underground Storage Tank Systems,” Sections 010.16, 100.01 and .03, 200, 600, and 601.

(B) [Reserved]

(2) *Statement of legal authority.* The Attorney General’s Statement, signed by the Deputy Attorney General of the State of Idaho on August 23, 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.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the program revision application for approval on September 19, 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) *Program description.* The program description and any other material submitted as part of the program revision application for approval on September 19, 2018, 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 10 and the Idaho Department of Environmental Quality, signed by the EPA Regional Administrator on March 19, 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. Appendix A to part 282 is amended by adding an entry for “Idaho” in alphabetical order by State to read as follows:

APPENDIX A TO PART 282—STATE REQUIREMENTS INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

* * * * *

Idaho

(a) The statutory provisions include:

(1) *Idaho Code, Title 39, “Health and Safety,”* Chapter 1, “Environmental Quality – Health”: Section 39-103, “Definitions,” 39-103(3), (6), (7), (11), (12), (15) – (18); Section 39-107, “Board – Composition – Officers – Compensation – Powers – Subpoena – Depositions – Review – Rules,” 39-107(7).

(2) *Idaho Code, Title 39, “Health and Safety,”* Chapter 88, “Idaho Underground Storage Tank Act”: Sections 39-8803, “Definitions,” -8804, “Program Scope,” -8805, “Rules Governing Underground Storage Tank Systems,” -8805A, “Compliance Dates for Certain Rules,” -8806, “Additional Measures to Protect Ground Water,” -8807, “Operator Training,” -8808, “Inspections,” -8809, “Delivery Prohibition,” and -8810, “Underground Storage Tank Database.”

(b) The regulatory provisions include:

(1) *Idaho Administrative Code 58, Title 01, Chapter 07:*

Section 004 Incorporation by Reference;

Section 010 Definitions (except 010.16, defining “Replace”);

Section 100 Additional Measures to Protect Ground Water from Contamination (except 100.01 - .03);

Section 101 Alternative Periodic Testing of Containment Sumps Used for
Interstitial Monitoring of Piping;

Section 300 Training Requirements.

(2) *Idaho Administrative Code* 58, Title 01, Chapter 24.

(c) Copies of the Idaho provisions that are incorporated by reference are available from Idaho's Office of Administrative Rules Coordinator, P.O. Box 83720, Boise, ID 83720; Phone number: 208-332-1820; Website: <https://adminrules.idaho.gov/>.

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