



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA-R05-UST-2023-0631; FRL 12762-02-R5]

Minnesota: 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 State of Minnesota's Underground Storage Tank (UST) program submitted by the Minnesota Pollution Control Agency. This action also codifies EPA's approval of Minnesota's state program and incorporates by reference those provisions of Minnesota's statutes and regulations that EPA has determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under 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 EPA receives adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If EPA receives significant adverse comments, 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 **[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 on-line instructions for submitting comments.

2. *E-mail:* restaino.mark@epa.gov.

Instructions: Direct your comments to Docket ID No. EPA-R05-UST-2023-0631. 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 by e-mail. The Federal <https://www.regulations.gov> website 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 e-mail comment directly to EPA without going through <https://www.regulations.gov>, your e-mail 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 EPA contact person listed in the document 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, for example, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available electronically through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mark Restaino, Remediation Branch, Land, Chemical, and Redevelopment Division, U.S. Environmental Protection Agency, Region 5, 77 W Jackson Boulevard, Chicago, Illinois 60604; (312) 886-0394; restaino.mark@epa.gov. Emily Lane, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 5, 77 W Jackson Boulevard, Chicago, Illinois 60604; (312) 353-6344; lane.emily@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Minnesota’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 Minnesota that have received final UST program approval from EPA under section 9004 of RCRA must, 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 August 22, 2023, in accordance with 40 CFR 281.51, Minnesota submitted a complete program revision application seeking EPA approval for its UST program revisions (State Application) (which was inclusive of the Minnesota Attorney General’s letter to the Regional Administrator dated April 17, 2023, and received by EPA on April 25, 2023).

Minnesota's revisions correspond to EPA's 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 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; a statement of certification from the Attorney General; and copies of all relevant State statutes and regulations. EPA has reviewed the State Application and determined that the revisions to Minnesota's UST program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Minnesota program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, EPA grants Minnesota 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 Minnesota 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 issue of the *Federal Register* that serves as the proposal to approve the State's UST program revisions, 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. 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 Minnesota previously been approved?

On November 30, 2001 (66 FR 59713), EPA finalized a rule approving Minnesota's UST program, effective December 31, 2001, to operate in lieu of the Federal program. In the rule (66 FR 59713) EPA codified the approved Minnesota program, incorporating by reference the State 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 are the changes EPA is approving with this action?

On August 22, 2023, in accordance with 40 CFR 281.51, Minnesota submitted a complete application for final approval of its UST program revisions, including Minnesota Rule Chapter 7150, effective June 6, 2019. EPA has reviewed Minnesota'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 Minnesota certified that the laws and regulations of Minnesota 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 Minnesota in making its determination. EPA now makes an immediate final decision, subject to receipt of any significant negative written comments that oppose this action, that Minnesota's UST program revisions satisfy all the requirements necessary to qualify

for final approval. Therefore, EPA grants Minnesota final approval for the following program

changes:

Required Federal Element	Implementing State Authority
40 CFR 281.30, New UST Systems and Notification	<p>Minnesota Rules Minn. R. Chapter 7150 Minn. R. 7150.0030, subp. 1, 2(B), 5, 6, 51 Minn. R. 7150.0090 Minn. R. 7150.0205, subp. 1-5, 7 Minn. R. 7150.0250, subp. 2, 3 Minn. R. 7150.0451</p> <p>Minnesota Statutes Minn. Stat. Chapter 115C Minn. Stat. Chapter 115E Minn. Stat. §116.46-116.49 Minn. Stat. § 299F.011 Minn. Stat. § 299F.19</p>
40 CFR 281.31, Upgrading Existing UST Systems	<p>Minnesota Rules Minn. R. 7150.0205, subp. 1(A), 3(A), 5 Minn. R. 7150.0451 Minn. R. 7150.0500</p> <p>Minnesota Statutes Minn. Stat. Chapter 115C Minn. Stat. Chapter 115E Minn. Stat. § 116.46-116.49 Minn. Stat. § 299F.011 Minn. Stat. § 299F.19</p>
40 CFR 281.32, General Operating Requirements	<p>Minnesota Rules Minn. R. 7150.0100, subp. 9, 11(A) Minn. R. 7150.0215, subp. 1, 5 Minn. R. 7150.0216, subp. 1, 2, 4, 5 Minn. R. 7150.0250, subp. 2, 3 Minn. R. 7150.0450</p> <p>Minnesota Statutes Minn. Stat. § 116.49, subd. 2</p>
40 CFR 281.33, Release Detection	<p>Minnesota Rules Minn. R. 7150.0030, subp. 44c Minn. R. 7150.0100, subp. 9 Minn. R. 7150.0205, subp. 1(C), 3(C) Minn. R. 7150.0216, subp. 2, 3 Minn. R. 7150.0300 Minn. R. 6150.0330 Minn. R. 7150.0340 Minn. R. 7150.0451</p> <p>Minnesota Statutes Minn. Stat. § 116.49</p>

40 CFR 281.34, Release Reporting, Investigation, and Confirmation	<p>Minnesota Rules Minn. R. 7150.0345, subp. 1-3</p> <p>Minnesota Statutes Minn. Stat. § 115.061 Minn. Stat. § 115.071, subd. 5 Minn. Stat. § 115B.17, subd. 2, 14 Minn. Stat. § 115E.02 Minn. Stat. § 115E.03</p>
40 CFR 281.35, Release Response and Corrective Action	<p>Minnesota Rules Minn. R. 7045.0275 Minn. R. 7060.0500 Minn. R. 7060.0600, subp. 3, 4 Minn. R. 7060.0800 Minn. R. 7150.0345 Minn. R. 7150.0450</p> <p>Minnesota Statutes Minn. Stat. § 13.7411 Minn. Stat. § 115.061 Minn. Stat. § 115.071, subd. 3, 5 Minn. Stat. § 115B.17, subd. 1, 2, 2b, 12-14 Minn. Stat. § 115C.02, subd. 1-4 Minn. Stat. § 115C.03, subd. 1-3, 5-7, 9, 10 Minn. Stat. § 115C.05 Minn. Stat. Chapter 115E Minn. Stat. § 116.072</p>
40 CFR 281.36, Out-of-Service Systems and Closure	<p>Minnesota Rules Minn. R. 7150.0250, subp. 4 Minn. R. 7150.0345, subp. 3 Minn. R. 7150.0400, subp. 2-4 Minn. R. 7150.0410, subp. 2-7 Minn. R. 7150.0430</p> <p>Minnesota Statutes Minn. Stat. § 115C.065 Minn. Stat. § 116.48, subd. 2, 8</p>
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum	<p>Minnesota Rules Minn. R. 7150.0090, subp. 3(B)</p> <p>Minnesota Statutes Minn. Stat. § 115C.03 Minn. Stat. § 115C.04, subd. 3 Minn. Stat. § 115C.09, subd. 3a</p>
40 CFR 281.38, Lender Liability	<p>Minnesota Statutes Minn. Stat. Chapter 115C</p>
40 CFR 281.39, Operator Training	<p>Minnesota Rules Minn. R. 7150.0445</p>
49 CFR 281.40, Legal Authorities for Compliance Monitoring	<p>Minnesota Statutes Minn. Stat. § 115C.03, subd. 6, 7 Minn. Stat. § 115B.17, subd. 2-4 Minn. Stat. § 115B.071, subd. 1, 5</p>

	Minn. Stat. § 116.091, subd. 3
40 CFR 281.41, Legal Authorities for Enforcement Response	Minnesota Statutes Minn. Stat. § 115.071, subd. 1-4, 7 Minn. Stat. § 116.072, subd. 1-6 Minn. Stat. § 115C.03, subd. 4 Minn. Stat. § 115C.05

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 Minnesota Pollution Control Agency has broad statutory and regulatory authority with respect to USTs to regulate installation, operation, maintenance, closure, and UST releases, and with respect to the issuance of orders. These statutory authorities are found in Minnesota Statutes Chapter 116, Pollution Control Agency, and Chapter 115.07, Enforcement.

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 provisions are considered “broader in scope” than the Federal program:

Minnesota Rules

Minn. R. 7150.0010, Applicability, subp. 2(H), in part as to “of 1,100 gallons or less capacity.”

Minn. R. 7150.0010, Applicability, subp. 5.

Minn. R. 7150.0030, Definitions, subp. 1, in part as to “Terms that are not specifically defined have the meanings given in Minnesota Statutes, sections 115.01, 115C.02, and 116.46.”

Minn. R. 7150.0030, Definitions, subp. 50a, in part as to “or other potentially harmful substance.”

Minn. R. 7150.0030, Definitions, subp. 51(A)(1), in part as to “or other potentially harmful substance.”

Minn. R. 7150.0090, Notification and Certification, subp. 2-4, in part as to “dispensers.”

Minn. R. 7150.0090, Notification and Certification, subp. 9.

Minn. R. 7150.0216, Operating, Maintaining, and Testing UST Systems, subp. 1(B).

Minn. R. 7060.0600, Standards, subp. 1, 2, and 5-8.

Minnesota Statutes

Minn. Stat. § 115C.02, Definitions, subd. 10 and 10a.

Minn. Stat. § 116.46, Definitions, subd. 1a, 7a, 7b, and 10.

Minn. Stat. § 116.47(2), Exemptions, in part as to “of 1,100 gallons or less capacity.”

Minn. Stat. § 116.47(10), Exemptions.

Minn. Stat. § 116.48, Notification Requirements, subd. 1(b), 4.

Minn. Stat. § 116.48, Notification Requirements, subd. 2, 3, 5, and 6, in part as they apply to aboveground storage tanks.

Minn. Stat. § 116.49, Environmental Protection Requirements, subd. 3 and 4.

More Stringent Provisions

The following regulatory requirements are considered more stringent than the Federal program, and on approval, they become part of the federally approved program and are federally enforceable pursuant to 40 CFR 281.12(a)(3)(i):

Minnesota Rules

Minn. R. 7150.0030, Definitions, subp. 2a, because it defines “agency-approved tester[s]” which are not a part of the Federal program.

Minn. R. 7150.0030, Definitions, subp. 6, because it defines “cathodic-protection tester[s]” which are not a part of the Federal program.

Minn. R. 7150.0090, Notification and Certification, subp. 1, because it imposes prenotification requirements that do not exist in the Federal program.

Minn. R. 7150.0090, Notification and Certification, subp. 5, because it requires records to be submitted to the implementing agency, where the Federal program only requires records to be readily available when requested by the implementing agency.

Minn. R. 7150.0100, Performance Standards for UST Systems, subp. 13, because it mandates the use of a double-poppet design where the Federal program does not.

Minn. R. 7150.0100, Performance Standards for UST Systems, subp. 14, only to the extent that the drop tube requirements are inconsistent with codes of practice used in the Federal program.

Minn. R. 7150.0205, Design and Construction, subp. 1(B)(2), because it requires use of corrosion protection on all metal underground storage tanks where the Federal program does not.

Minn. R. 7150.0205, Design and Construction, subp. 1(B)(2)(b), because it requires certification where the Federal program does not.

Minn. R. 7150.0205, Design and Construction, subp. 1(B)(2)(c), because it requires certification where the Federal program does not.

Minn. R. 7150.0215, Operating and Maintaining Corrosion Protection, subp. 3(B)(1), because it requires annual testing where the Federal program requires testing once every three years.

Minn. R. 7150.0215, Operating and Maintaining Corrosion Protection, subp. 3(B)(2), because it requires annual testing where the Federal program requires testing once every three years.

Minn. R. 7150.0215, Operating and Maintaining Corrosion Protection, subp. 4(A)(2), because it imposes qualification requirements on the inspector where the Federal program does not.

Minn. R. 7150.0216, Operating, Maintaining, and Testing UST Systems, subp. 3(B), because it requires use of an agency-approved tester where the Federal program does not.

Minn. R. 7150.0216, Operating, Maintaining, and Testing UST Systems, subp. 4(C), because it requires use of an agency-approved tester where the Federal program does not.

Minn. R. 7150.0216, Operating, Maintaining, and Testing UST Systems, subp. 5, because it requires use of an agency-approved tester where the Federal program does not.

Minn. R. 7150.0216, Operating, Maintaining, and Testing UST Systems, subp. 6, because it delineates requirements related to agency-approved testers which are not a part of the Federal program.

Minn. R. 7150.0250, Restoration, Corrective Actions, and Required Permanent Closure, subp. 1(A)(3), because it requires certification that the Federal program does not.

Minn. R. 7150.0300, Release Detection, subp. 1(C), as it refers to the any more stringent performance standards and methods of release detection elsewhere identified in 7150.0330 and 7150.0340.

Minn. R. 7150.0340, Method of Release Detection for Piping, subp. 2(C), because it only allows the leak-detection system to alert the operator by shutting of flow, where the Federal program allows alert by restricting or shutting off flow or by triggering an audible or visual alarm.

Minn. R. 7150.0400, Temporary Closure, subp. 3(C), because it requires the tank to be emptied after ninety days where the Federal program does not.

Minn. R. 7150.0400, Temporary Closure, subp. 5, because it requires permanent closure after five years where the Federal program does not.

Minn. R. 7150.0410, Permanent Closure and Change in Status to Storage of Nonregulated Substances, subp. 3(D), because it requires closure of co-structural retrofitted tanks where the Federal program does not.

Minn. R. 7150.0445, Class A, B, and C Operator Requirements, subp. 1(B), because it requires the Class A, B, and C operators to be the owner or operator of the underground storage tank system where the Federal program does not.

Minnesota Statutes

Minn. Stat. § 115C.03, Response to Releases, subd. 1a, because it mandates that passive bioremediation “must be used” where Federal rules do not contain the same mandate.

Minn. Stat. § 115C.065, Consultant or Contractor; Duty to Notify, in entirety, because it imposes duties on consultants and contractors where the Federal rules only impose these duties on owners and operators.

Minn. Stat. § 116.48, Notification Requirements, subd. 6-8, because these impose notice requirements prior to transfer of property known to contain underground storage tanks and prior to installation or removal of an underground storage tank where the Federal rules do not.

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 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 state 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 Minnesota’s UST program?

EPA incorporated by reference Minnesota’s approved UST program at 40 CFR 282.73 effective December 31, 2001 (66 FR 59713, November 30, 2001). In this document, EPA is revising 40 CFR 282.73 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 the federally-approved Minnesota statutes and regulations pertaining to re-authorization of the Minnesota UST program as described in sections I.F. and I.G. of this preamble. On November 30, 2001, EPA approved the initial Minnesota UST program with an effective date of December 31, 2001, codifying the approved program on the same date. On July 15, 2015, EPA published revisions to the original Federal UST regulations, dated September 23, 1988, making changes to the regulations in accordance with the 2005 Energy Policy Act. The UST provisions of the Act focused on preventing releases; as a result, some of the more significant changes to the Federal regulations included updating UST operator training requirements, requiring secondary containment and monitoring, setting out new spill and overfill prevention equipment testing requirements, and requiring annual testing of leak detection equipment. In response to the 2015 Federal revisions, Minnesota codified state regulations, including Minnesota Rule Chapter 7150, effective June 6, 2019, to address the changes made to the Federal program so that the State program would remain no less stringent than the Federal program. These changes to the State program are now to be incorporated as set forth below in the amendments to 40 CFR part 282.

EPA has made, and will continue to make, this document generally available through www.regulations.gov or by contacting the EPA Region 5 contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

This *Federal Register* document is intended to codify Minnesota's approved UST program. The codification reflects the state program that will be in effect at the time EPA's approved revisions to the Minnesota UST program addressed in this direct final rule become final. The document incorporates by reference Minnesota's UST statutes and regulations and clarifies which of these provisions are included in the approved and federally-enforceable program. By codifying the approved Minnesota program and by amending the CFR, the public

will more easily be able to discern the status of the federally-approved requirements of the Minnesota program.

EPA is incorporating by reference the Minnesota approved UST program in 40 CFR 282.73. Section 282.73(d)(1)(i) incorporates by reference for enforcement purposes the State's statutes and regulations.

Section 282.73 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, Program Description, and 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 Minnesota's codification on enforcement?

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's authorized analogues to these provisions. Therefore, EPA is not incorporating by reference such approved Minnesota procedural and enforcement authorities. Section 282.73(d)(1)(ii) of 40 CFR lists those approved Minnesota 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. Section 281.12(a)(3)(ii) of 40 CFR 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 Federal enforcement in part 282.

Section 282.73(d)(1)(iii) lists for reference and clarity the Minnesota 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 in this document. 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 Minnesota's 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. Executive Order 14192: Unleashing Propensity Through Deregulation

This action is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because this action is exempt from review under Executive Order 12866 (as described above).

C. 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).

D. 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.

E. 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.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

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).

G. 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.

H. 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.

I. 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.

J. National Technology Transfer and Advancement Act (NTTAA)

Under RCRA section 9004(b), EPA grants a State’s application for approval if 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.

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 **[INSERT DATE 60 DAYS AFTER 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 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

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.

Dated: August 26, 2025.

Anne Vogel,
Regional Administrator, Region 5.

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 § 282.73 to read as follows:

§ 282.73 Minnesota State-Administered Program.

(a) *History of the approval of Minnesota's program.* The State of Minnesota 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 Minnesota Pollution Control Agency, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Minnesota program on November 30, 2001, and approval was effective on December 31, 2001. 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.* Minnesota 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) *Retaining program approval.* To retain program approval, Minnesota 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 Minnesota 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 program approval.* Minnesota has final approval for the following elements of its program application originally submitted to EPA and approved on November 30, 2001, and effective December 31, 2001, 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 material cited in this paragraph (d)(1)(i), 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.* 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 the Minnesota regulations and statutes that are incorporated by reference in this paragraph from the Minnesota Legislature, Office of the Revisor of Statutes website at:

<https://www.revisor.mn.gov/statutes/> for Statutes and <https://www.revisor.mn.gov/rules/> for Rules, or from the Minnesota Pollution Control Agency, <https://www.pca.state.mn.us/>, 520 Lafayette Road N, St. Paul, MN 55155-4194.

(A) EPA-Approved Minnesota Regulatory Requirements Applicable to the Underground Storage Tank Program, May 2025.

(B) EPA-Approved Minnesota Statutory Requirements Applicable to the Underground Storage Tank Program, May 2025.

(ii) *Legal basis.* 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 for enforcement purposes and do not replace Federal authorities.

Minnesota Rules

(A) Minn. R. Civ. P. 24.

- (B) Minn. R. 7045.0275, Management of Hazardous Waste Spills.
- (C) Minn. R. 7060.0100, Purpose.
- (D) Minn. R. 7060.0200, Policy.
- (E) Minn. R. 7060.0300, Definitions.
- (F) Minn. R. 7060.0400, Uses of Underground Waters.
- (G) Minn. R. 7060.0500, Nondegradation Policy.
- (H) Minn. R. 7060.0700, Severability.
- (I) Minn. R. 7060.0900, Variance.

Minnesota Statutes

- (J) Minn. Stat. section 115.061, Duty to Notify; Avoiding Water Pollution.
- (K) Minn. Stat. section 115.071, Enforcement.
- (L) Minn. Stat. section 115B.17, State Response to Releases.
- (M) Minn. Stat. section 115B.18, Failure to Take Requested Actions; Civil Penalties; Action to Compel Performance; Injunctive Relief, subd. 4.
- (N) Minn. Stat. section 115C.01, Citation.
- (O) Minn. Stat. section 115C.021, Responsible Person.
- (P) Minn. Stat. section 115C.03, Response to Releases, subd. 1, 2-7, 7a, 8-10.
- (Q) Minn. Stat. section 115C.04, Liability for Response Costs.
- (R) Minn. Stat. section 115C.045, Kickbacks.
- (S) Minn. Stat. section 115C.05, Civil Penalty.
- (T) Minn. Stat. section 115C.06, Effect on Other Law.
- (U) Minn. Stat. section 115C.07, Petroleum Tank Release Compensation Board.
- (V) Minn. Stat. section 115C.08, Petroleum Tank Fund.
- (W) Minn. Stat. section 115C.09, Reimbursement.
- (X) Minn. Stat. section 115C.093, Corrective Action; Performance Audits.
- (Y) Minn. Stat. section 115C.094, Abandoned Underground Storage Tanks.
- (Z) Minn. Stat. section 115C.10, Funding Agency Actions.
- (AA) Minn. Stat. section 115C.11, Consultants and Contractors; Sanctions.

- (BB) Minn. Stat. section 115C.112, Consultant and Contractor Sanctions; Actions Based on Conduct Occuring On and After March 14, 1996.
- (CC) Minn. Stat. section 115C.113, Orders.
- (DD) Minn. Stat. section 115C.12, Appealing Reimbursement Determination.
- (EE) Minn. Stat. chapter 115E.
- (FF) Minn. Stat. section 116.072, Administrative Penalties.
- (GG) Minn. Stat. section 116.091, Systems and Facilities, subd. 3.
- (HH) Minn. Stat. section 116.49, Environmental Protection Requirements, subd. 1, 1a, 2.
- (II) Minn. Stat. section 13.7411, Pollution Control and Environmental Quality Data Coded Elsewhere.
- (JJ) Minn. Stat. section 299F.011, State Fire Code; Administration and Enforcement.
- (KK) Minn. Stat. section 299F.19, Flammable Liquids and Explosives.

(iii) Provisions *not incorporated by reference*. 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.

Minnesota Rules

- (A) Minn. R. 7150.0010, Applicability, subp. 2(H), in part as to “of 1,100 gallons or less capacity.”
- (B) Minn. R. 7150.0010, Applicability, subp. 5.
- (C) Minn. R. 7150.0030, Definitions, subp. 1, in part as to “Terms that are not specifically defined have the meanings given in Minnesota Statutes, sections 115.01, 115C.02, and 116.46.”
- (D) Minn. R. 7150.0030, Definitions, subp. 50a, in part as to “or other potentially harmful substance.”
- (E) Minn. R. 7150.0030, Definitions, subp. 51(A)(1), in part as to “or other potentially harmful substance.”
- (F) Minn. R. 7150.0090, Notification and Certification, subp. 2-4, in part as to “dispensers.”
- (G) Minn. R. 7150.0090, Notification and Certification, subp. 9.
- (H) Minn. R. 7150.0216, Operating, Maintaining, and Testing UST Systems, subp. 1(B).
- (I) Minn. R. 7060.0600, Standards, subp. 1, 2, and 5-8.

Minnesota Statutes

- (J) Minn. Stat. section 115C.02, Definitions, subd. 10 and 10a.
- (K) Minn. Stat. section 116.46, Definitions, subd. 1a, 7a, 7b, and 10.
- (L) Minn. Stat. section 116.47(2), Exemptions, in part as to “of 1,100 gallons or less capacity.”
- (M) Minn. Stat. section 116.47(10), Exemptions.
- (N) Minn. Stat. section 116.48, Notification Requirements, subd. 1(b) and 4.
- (O) Minn. Stat. section 116.48, Notification Requirements, subd. 2, 3, 5, and 6 in part as they apply to aboveground storage tanks.
- (P) Minn. Stat. section 116.49, Environmental Protection Requirements, subd. 3 and 4.

(2) *Statement of legal authority.* The Attorney General’s “State Underground Storage Tank Program Authorization” Letter, signed by the Minnesota Attorney General on April 17, 2023, 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” Letter, dated January 2022 and submitted as part of the program revision application, 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 on August 22, 2023, 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 5 and the State of Minnesota’s Minnesota Pollution Control Agency, signed by the EPA Regional Administrator on December 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.*

3. Appendix A to part 282 is amended by revising the entry for “Minnesota” to read as follows:

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

* * * * *

Minnesota

(a) The statutory provisions include:

(1) Minn. Stat. chapter 155C, Petroleum Tank Release Cleanup

(A) Minn. Stat. section 115C.02, *except for* subd. 10 and 10a.

(B) Minn. Stat. section 115C.03, subd. 1a.

(C) Minn. Stat. section 115C.065.

(2) Minn. Stat. chapter 116, Pollution Control Agency

(A) Minn. Stat. section 116.46, *except for* subd. 1a, 7a, 7b, and 10.

(B) Minn. Stat. section 116.47, *except for* (2), in part as to “of 1,100 gallons or less capacity,” and (10).

(C) Minn. Stat. section 116.48, *except for* subd. 1(b) and 4, in entirety, and subd. 2, 3, 5, and 6, in part as related to above ground storage tanks.

(b) The regulatory provisions include:

(1) Minn. R. chapter 7060, Minnesota Pollution Control Agency, Underground Waters

(A) Minn. R. 7060.0600, subp. 3, 4.

(B) Minn. R. 7060.0800.

(2) Minn. R. chapter 7150, Minnesota Pollution Control Agency, Underground Storage Tanks; Program

(A) Minn. R. 7150.0010, *except for* subp. 2(H), in part as to “of 1,100 gallons or less capacity,” and 5.

(B) Minn. R. 7150.0030, *except for* subp. 1, in part as to “[t]erms that are not specifically defined have the meanings given in Minnesota Statutes, sections 115.01, 115C.02, and 116.46,” 50a, in part as to “or other potentially harmful

substance,” and 51(A)(1), in part as to “or other potentially harmful substance.”

- (C) Minn. R. 7150.0090, *except for* subp. 9.
- (D) Minn. R. 7150.0100.
- (E) Minn. R. 7150.0205.
- (F) Minn. R. 7150.0215.
- (G) Minn. R. 7150.0216, *except for* subp. 1(B).
- (H) Minn. R. 7150.0250.
- (I) Minn. R. 7150.0300.
- (J) Minn. R. 7150.0330.
- (K) Minn. R. 7150.0340.
- (L) Minn. R. 7150.0345.
- (M) Minn. R. 7150.0400
- (N) Minn. R. 7150.0410.
- (O) Minn. R. 7150.0430.
- (P) Minn. R. 7150.0445.
- (Q) Minn. R. 7150.0450.
- (R) Minn. R. 7150.0451.
- (S) Minn. R. 7150.0500.

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