



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 281 and 282**

**[EPA-R04-UST-2019-0310; FRL-9998-86-Region 4]**

### **Georgia: Proposed Approval and Incorporation by Reference of State Underground Storage Tank Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing, subject to public comment, to approve revisions to the underground storage tank (UST) program submitted by the State of Georgia (Georgia or State). The EPA has reviewed Georgia's revisions and is proposing to determine that these revisions satisfy all requirements needed for program approval. In addition, the EPA is proposing to codify EPA's approval of Georgia's revised UST program and to incorporate by reference those provisions of the State statutes and regulations the EPA has determined, subject to public comment, meet the requirements for approval. The EPA seeks public comment prior to taking final action.

**DATES:** Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by docket number EPA-R04-UST-2019-0310, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.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://www.epa.gov/dockets/commenting-epa-dockets>.

All documents in the docket are listed on the <https://www.regulations.gov> website. Publicly available docket materials are also available in hard copy at the Underground Storage Tanks and Data Management Section in the Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Aaryn Jones, RCRA Programs and Cleanup Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta,

Georgia 30303-8960; Phone number: (404) 562-8969; e-mail address:

*jones.aaryn@epa.gov.*

## **SUPPLEMENTARY INFORMATION:**

### **I. Proposed Approval of Revisions to Georgia's Underground Storage Tank (UST) Program**

#### *A. Why are revisions to state UST 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 a UST program that is no less stringent than the federal 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 UST programs and these changes must then be approved by the EPA.

#### *B. What decision is the EPA proposing to make in this rule?*

On August 8, 2018, in accordance with 40 CFR 281.51(a), Georgia submitted a complete program revision application (State Application) seeking approval of changes to its UST program. The program revisions requested in the State Application 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 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. The EPA has reviewed the State Application and is proposing to determine that the revisions to Georgia's UST program are no less stringent than the corresponding federal requirements in subpart C of 40 CFR part 281, and that the Georgia program continues to provide adequate enforcement of compliance. Therefore, the EPA is proposing to grant Georgia final approval to operate its UST program with the revisions described in the State Application, and as outlined below in Section I.F. The Environmental Protection Division (EPD) of the Georgia Department of Natural Resources (DNR) is the lead implementing agency for the UST program in Georgia.

*C. What is the effect of this proposed approval on the regulated community?*

Section 9004(b) of RCRA, 42 U.S.C. 6991c(b), as amended, allows the EPA to approve state UST programs to operate in lieu of the federal program. If Georgia is approved for the changes described in the State Application, these changes will become part of the approved State UST program, and therefore will be federally enforceable. Georgia will continue to have primary enforcement authority and responsibility for its State UST program. This action does not impose additional requirements on the regulated community because the regulations being proposed for approval by this rule are already in effect in the State of Georgia, and are not changed by this proposed action. This action merely proposes to approve the existing State regulations as meeting the revised federal requirements and rendering them federally enforceable.

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

The EPA will evaluate any comments received on this proposed action and will make a final decision on approval or disapproval of the UST program revisions contained in the State Application. The EPA's decision will be published in the *Federal Register*. You may not have another opportunity to comment. If you want to comment on this proposed action, you must do so at this time.

*E. For what has Georgia previously been approved?*

Effective July 9, 1991, the EPA granted final approval for Georgia to administer the State UST program in lieu of the federal UST program (56 FR 21603, May 10, 1991). Effective March 4, 1996, the EPA codified the provisions of the approved Georgia program that are part of the UST program under subtitle I of RCRA, and therefore are subject to the EPA's corrective action, inspection, and enforcement authorities under RCRA sections 9003(h), 9005 and 9006, 42 U.S.C. 6991b(h), 6991d and 6991e, and other applicable statutory and regulatory provisions (61 FR 4224, February 5, 1996).

*F. What changes is the EPA proposing to approve with this action and what standards do we use for review?*

In order to be approved, each state program revision application must meet the general requirements in 40 CFR 281.11 (General Requirements), and the 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).

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

program to reflect the 2015 Federal Revisions. These changes are included in the Georgia UST Rules at Ga. Comp. R. & Regs. 391-3-15, as amended, effective November 6, 2017. The EPA is proposing to approve the State's changes because they are no less stringent than the federal UST program, and because the revised Georgia UST program will continue to provide for adequate enforcement of compliance as required by 40 CFR 281.11(b) and part 281, subparts C and D, after this approval.

The Georgia EPD continues to be the lead implementing agency for the UST program in Georgia. The EPD continues to have broad statutory and regulatory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases, under the Georgia Underground Storage Tank Act (GUSTA), Official Code of Georgia Annotated (O.C.G.A.) section 12-13-1 (2017), and the Ga. Comp. R. & Regs. 391-3-15 (2017).

As part of the State Application, the Georgia Attorney General has identified the following specific authorities for compliance monitoring, required pursuant to 40 CFR 281.40: GUSTA, O.C.G.A. sections 12-13-6(a)(3), 12-13-8(a), and 12-13-14(b); and Ga. Comp. R. & Regs. r. 391-3-15-.01(2) and 391-3-15-.08.

As part of the State Application, the Georgia Attorney General has identified the following specific authorities for enforcement response, required pursuant to 40 CFR 281.41: GUSTA, O.C.G.A. sections 12-13-15 and 12-13-19(b) and (c); and Ga. Comp. R. & Regs. r. 391-3-15-.14.

As part of the State Application, the Georgia Attorney General has identified the following specific authorities enabling public participation in the State enforcement

process, required pursuant to 40 CFR 281.42: O.C.G.A. sections 12-2-2, 50-13-14, 12-13-15, 9-11-24, 12-13-6(a)(8), 12-13-16, and 12-13-21; and Ga. Comp. R. and Regs. r. 391-1-2-.14(2) and 391-3-15-.09. Further, through a Memorandum of Agreement between the State of Georgia and the EPA, effective October 12, 2018, the State maintains procedures for receiving and ensuring proper consideration of information about violations submitted by the public and will not object to public participation in administrative or civil enforcement actions. As required pursuant to 40 CFR 281.43, through the Memorandum of Agreement between the State and the EPA, the State agrees to furnish the EPA, upon request, any information in State files obtained or used in the administration of the State program.

To qualify for final approval, revisions to a state's UST program must be "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. Georgia incorporates all the required 2015 Federal Revisions at Ga. Comp. R. & Regs. 391-3-15. Specifically, Georgia has amended its Georgia UST Rules to incorporate by reference (into the Georgia regulations) the requirements of 40 CFR part 280, including the requirements added by the 2015 Federal Revisions.

As part of the State Application, and as described above, the Georgia Attorney General has certified that the State regulations provide for adequate enforcement of compliance and meet the “no less stringent” criteria in 40 CFR part 281, subparts C and D. The EPA is relying on this certification, in addition to the analysis submitted by the State, in proposing to approve the State’s changes.

*G. Where are the revised State rules different from the federal rules?*

### **Broader in Scope Provisions**

Where a state program has provisions that are broader in scope than required by federal law, these provisions are not part of the federally-approved program and are not federally enforceable, in accordance with 40 CFR 281.12(a)(3)(ii). The following State statutory and regulatory requirements are considered broader in scope than the federal and are therefore not part of federally approved State UST program:

#### Statutory Broader in Scope Provisions

- O.C.G.A. section 12-13-9(f)-(i) establishes the Georgia Underground Storage Tank (GUST) Fund to take emergency action, take preventive or corrective action, and provide compensation for third-party liabilities.
- O.C.G.A. section 12-13-10 requires that an environmental assurance fee be paid by any potential claimant to the GUST Fund.
- O.C.G.A section 12-13-11(b) through (e) pertain to the use of the GUST Fund to perform corrective action.

- O.C.G.A. section 12-13-13(e) requires owners and operators of a UST in use or capable of being used to provide an annual UST notification.
- O.C.G.A. section 12-13-18(a) requires owners and operators of USTs to maintain proof that all petroleum stored in such tank was subjected to the environmental fee imposed in O.C.G.A. section 12-13-10.

#### Regulatory Broader in Scope Provisions

- Ga. Comp. R. & Regs. r. 391-3-15-.05(4) requires an annual registration of USTs and an annual UST Registration Certificate.
- Ga. Comp. R. & Regs. r. 391-3-15-.09(5) requires that owners or operators may transport or provide for transportation of petroleum-contaminated soils only to permitted storage, treatment or disposal facilities and must designate any receiving facility in the corrective action plan.
- Ga. Comp. R. & Regs. r. 391-3-15-.09(7) allows owners and operators conducting corrective action with funds other than the GUST Fund to remediate soil and groundwater to a more stringent objective than those found in Ga. Comp. R. & Regs. r. 391-3-15-.09(4).
- Ga. Comp. R. & Regs. r. 391-3-15-.13 describes the requirements for owner/operator participation in the GUST Fund, including payment of an Environmental Assurance Fee (EAF) to EPD per gallon of petroleum products imported into Georgia.

#### **More Stringent Provisions**

When an approved state program includes requirements that are considered more stringent than those required by federal law, the more stringent requirements become part of the federally approved program in accordance with 40 CFR 281.12(a)(3)(i).

The following State regulatory requirements are considered more stringent than the federal program, and on approval, they will become part of the federally-approved State UST program and therefore federally enforceable:

- With respect to the definition of “replaced” found at 40 CFR 280.12, under Ga. Comp. R. & Regs. r. 391-3-15-.03(1)(n), Georgia defines “replace” when referring to piping to mean the removal and replacement of 25% or more of the existing piping.
- With respect to recordkeeping requirements found at 40 CFR 280.34 and 40 CFR 280.45, under Ga. Comp. R. & Regs. r. 391-3-15-.06(2) and 391-3-15-.07(2), Georgia requires records to be maintained for a minimum period of 36 months.
- With respect to release response and corrective action requirements found at 40 CFR part 280, subpart F, the GUST Rule is more stringent as follows:
  - 1) Under Ga. Comp. R. & Regs. r. 391-3-15-.09(2), Georgia requires that a Corrective Action Plan - Part A be stamped or sealed by a Georgia registered Professional Engineer or Professional Geologist, and submitted in lieu of the initial abatement report, the initial site characterization report, and the free product removal report, as referenced by 40 CFR

280.62(b), 280.63(b), and 280.64(d), respectively, and must be submitted within 60 days after the release confirmation.

- 2) Under Ga. Comp. R. & Regs. r. 391-3-15-.09(3), Georgia requires that a Corrective Action Plan – Part B be submitted when certain surface water, groundwater, or soil contamination levels are exceeded, or when the State otherwise determines on a site-specific basis that a Corrective Action Plan – Part B is necessary.
- 3) Under Ga. Comp. R. & Regs. r. 391-3-15-.09(4), Georgia requires that if a Corrective Action Plan – Part B is necessary, the full extent of groundwater and surface water contamination must be delineated, and certain corrective action objectives must be proposed and implemented upon approval by the State.
- 4) Under Ga. Comp. R. & Regs. r. 391-3-15-.09(6), Georgia requires that the owner or operator certify completion of corrective action in the completion report.
- 5) Under Ga. Comp. R. & Reg. r. 391-3-15-.09(8), Georgia requires that determinations of petroleum concentrations in soil or groundwater be performed in conformity with specified methods.
- 6) Under Ga. Comp. R. & Regs. r. 391-15-.10, Georgia specifies cleanup levels for releases from hazardous substance USTs.

- With respect to closure requirements found at 40 CFR 280.72, under Ga. Comp. R. & Regs. r. 391-15-.11(3), Georgia requires that owners submit an EPD UST closure report within 45 days of permanently closing a UST.
- With respect to operator training requirements found at 40 CFR 280.244, under Ga. Comp. R. & Regs. r. 391-3-15-.16, Georgia requires owners and operators to complete operator training once every seven years.

## **II. Codification**

### *A. What is codification?*

Codification is the process of placing citations and references to a state's statutes and regulations that comprise a state's approved UST program into the Code of Federal Regulations (CFR). The EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that the EPA can enforce, after the approval is final, under sections 9005 and 9006 of RCRA, and any other applicable statutory provisions. The incorporation by reference of EPA-approved state programs in the CFR should substantially enhance the public's ability to discern the status of the approved state UST 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 Georgia's UST program?*

In 1996, the EPA incorporated by reference and codified Georgia's approved UST program at 40 CFR 282.60 (61 FR 4224, February 5, 1996). Through this action, the EPA

is proposing to amend 40 CFR 282.60 to incorporate by reference and codify Georgia's revised UST program.

*C. What codification decisions is the EPA proposing in this rule?*

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference of the relevant Georgia UST program, including the revisions made to the program based on the 2015 Federal Revisions. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Georgia's statutes and regulations as described in the amendments to 40 CFR part 282 set forth below. These documents are available through <https://www.regulations.gov> and at the EPA Region 4 office (see the ADDRESSES section of this preamble for more information). This proposed codification reflects the State UST program that would be in effect at the time the EPA's approved revisions to the Georgia UST program addressed in this proposed rule become final, subject to the receipt of public comments.

Specifically, in Section 282.60(d)(1)(i), the EPA is proposing to incorporate by reference the Georgia-approved UST program. Section 282.60(d)(1)(ii) identifies the State's statutes and regulations that are part of the approved State program, although not incorporated by reference for enforcement purposes. Section 282.60(d)(2) through (d)(5) reference the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are part of the State Application and proposed for approval as part of the UST program under subtitle I of RCRA.

*D. What is the effect of the EPA's codification of the federally approved Georgia 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 Georgia, the EPA will rely on federal sanctions, federal inspection authorities, and other federal procedures rather than the State analogs. Therefore, the EPA is not incorporating by reference Georgia's procedural and enforcement authorities, although they are listed in 40 CFR 282.60(d)(1)(ii).

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

As discussed in Section I.G. above, some provisions of the State's UST program are not part of the federally approved State program because they are "broader in scope" than the federal UST program. 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. In addition, provisions that are external to the State UST program approval requirements, but included in the State Application, are also being excluded from incorporation by reference in part 282. For reference and clarity, 40 CFR 282.60(d)(1)(iii) lists the Georgia statutory and regulatory provisions which are "broader in scope" than the federal program and external to state UST program approval

requirements. These provisions are, therefore, not part of the approved program that the EPA is proposing to codify. Although these provisions cannot be enforced by the EPA, the State will continue to implement and enforce such provisions under State law.

### **III. Statutory and Executive Order (EO) Reviews**

The EPA's proposed actions merely approve and codify Georgia's revised UST program requirements pursuant to RCRA section 9004, and do not impose additional requirements other than those imposed by State law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because UST program approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with RCRA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- Do not 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. The rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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.

#### **List of Subjects in 40 CFR Parts 281 and 282**

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

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

Mary S. Walker,  
Regional Administrator, Region 4.

For the reasons set forth in the preamble, 40 CFR part 282 is proposed to be amended 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 §282.60 to read as follows:

**§282.60 Georgia State-Administered Program.**

(a) *History of the approval of Georgia's Program.* The State of Georgia 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 Georgia Department of Natural Resources, Environmental Protection Division, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Georgia program on May 10, 1991 and it was effective on July 9, 1991. A subsequent program revision was approved by EPA and became effective on **[Effective date of final rule]**.

(b) *Enforcement authority.* Georgia has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, 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) To retain program approval, Georgia 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 Georgia obtains approval for 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) Georgia has final approval for the following elements of its underground storage tank program originally submitted to EPA and approved effective July 9, 1991, and the program revisions approved by EPA effective on **[Effective date of final rule]**:

(1) *State statutes and regulations.*

(i) *Incorporation by reference.* The Georgia materials cited in this paragraph, and listed in appendix A to part 282, 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 Georgia statutes that are incorporated by reference in this paragraph from LexisNexis, Attn: Official Code of Georgia Annotated, 701 East Water Street, Charlottesville, VA 22902-5389; Phone number: 1-800-833-9844; Website: [http://sos.ga.gov/index.php/elections/georgia\\_code\\_-\\_lexisnexis](http://sos.ga.gov/index.php/elections/georgia_code_-_lexisnexis). You may obtain copies of the Georgia regulations that are incorporated by reference in this paragraph from the Administrative Procedures Division, Office of the Georgia Secretary of State, 5800 Jonesboro Road, Morrow, Georgia 30260; Phone number: (678) 364-3785; Website: <http://rules.sos.ga.gov/gac/391-3-15>. You may

inspect all approved material at the EPA Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303; Phone number: (404) 562-9900; or the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, call (202) 741-6030 or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(A) “Georgia Statutory Requirements Applicable to the UST Program”, dated August 2018.

(B) “Georgia Regulatory Requirements Applicable to the UST Program”, dated August 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) *Official Code of Georgia Annotated (2017), Title 12: “Conservation and Natural Resources,”* Chapter 13, “Georgia Underground Storage Tank Act”: Sections 12-13-5; 12-13-6; 12-13-8; 12-13-11(a) and (f); 12-13-14 through 12-13-17; and 12-13-19 through 12-3-22.

(B) *Rules and Regulations of the State of Georgia (November 6, 2017), Department 391: “Rules of the Georgia Department of Natural Resources,”* Chapter 3, “Environmental Protection,” Subject 15, “Underground Storage Tank Management”: Sections 391-3-15-.01(2) and 391-3-15-.14.

(iii) *Other Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Georgia underground storage tank program that are broader in scope than the federal program or external to the state UST program approval requirements are not part of the approved program, and are not incorporated by reference herein:

(A) *Official Code of Georgia Annotated (2017), Title 12: “Conservation and Natural Resources,”* Chapter 13, “Georgia Underground Storage Tank Act”: Sections 12-13-3(8) and (16); 12-13-7; 12-13-9(d) through (i); 12-13-10; 12-13-11(b) through (e); 12-13-12; 12-13-13(e), and 12-13-18.

(B) *Rules and Regulations of the State of Georgia (November 6, 2017), Department 391: “Rules of the Georgia Department of Natural Resources,”* Chapter 3, “Environmental Protection,” Subject 15, “Underground Storage Tank Management”: Sections 391-3-15-.01(1); 391-3-15-.03(1)(a), (g), (i), and (p) through (r); 391-3-15-.04; 391-3-15-.05(4); 391-3-15-.09(5) and (7); 391-15-3-.12(3); 391-3-15-.13; and 391-3-15-.15.

(2) *Statement of legal authority.* The Attorney General’s Statement, signed by the Attorney General on June 12, 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 Georgia’s application on August 8, 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 submitted as part of Georgia’s application on August 8, 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.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the Georgia Environmental Protection Division, signed by EPA Regional Administrator on October 12, 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 proposed to be amended by revising the entry for Georgia to read as follows:

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

\* \* \* \* \*

*Georgia*

(a) The statutory provisions include: *Official Code of Georgia Annotated (2017)*, *Title 12: “Conservation and Natural Resources,”* Chapter 13, “Georgia Underground Storage Tank Act”:

Section 12-13-1 Short title.

Section 12-13-2 Public policy.

Section 12-13-3 Definitions, except (8) and (16).

Section 12-13-4 Exceptions to chapter.

Section 12-13-9 Establishing financial responsibility; claims against the guarantor; Underground Storage Tank Trust Fund, except (d) through (i).

Section 12-13-13 Notification by owner of underground storage tank, except (e).

(b) The regulatory provisions include: *Rules and Regulations of the State of Georgia (November 6, 2017), Department 391*: “Rules of the Georgia Department of Natural Resources,” Chapter 3, “Environmental Protection,” Subject 15, “Underground Storage Tank Management”:

Section 391-3-15-.01(3) General Provisions

Section 391-3-15-.02 UST Exclusions.

Section 391-3-15-.03 Definitions, except (1)(a), (1)(g), (1)(i), and (1)(p) through and (r).

Section 391-3-15-.05 UST Systems: Design, Construction, Installation, and Notification, except (4).

Section 391-3-15-.06 General Operating Requirements.

Section 391-3-15-.07 Release Detection.

Section 391-3-15-.08 Release Reporting, Investigation, and Confirmation.

Section 391-3-15-.09 Release Response and Corrective Action for UST Systems Containing Petroleum, except (5) and (7).

Section 391-3-15-.10 Release Response and Corrective Action for UST Systems Containing Hazardous Substances.

Section 391-3-15-.11 Out-of-Service UST Systems and Closure.

Section 391-3-15-.12 Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements, except (3).

Section 391-3-15-.16 Operator Training.

Section 391-3-15-.17 Airport Hydrant Systems and Field Constructed Tanks.

(c) Copies of the Georgia statutes that are incorporated by reference are available from LexisNexis, Attn: Official Code of Georgia Annotated, 701 East Water Street, Charlottesville, VA 22902-5389; Phone number: 1-800-833-9844; Website: [http://sos.ga.gov/index.php/elections/georgia\\_code\\_-\\_lexisnexis](http://sos.ga.gov/index.php/elections/georgia_code_-_lexisnexis). Copies of the Georgia regulations that are incorporated by reference are available from the Administrative Procedures Division, Office of the Georgia Secretary of State, 5800 Jonesboro Road, Morrow, Georgia 30260; Phone number: (678) 364-3785; Website: <http://rules.sos.ga.gov/gac/391-3-15>.

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