

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R09–UST–2025–0703; FRL–12910–02–R9]

Nevada: Codification and Incorporation by Reference of Approved Underground Storage Tank Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 30, 2021, the State of Nevada (Nevada) received final approval, from the Environmental Protection Agency (EPA), of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is taking direct final action to codify the approval of Nevada's revised UST Program and incorporate by reference those provisions of Nevada's statutes and regulations that the EPA has determined meet the requirements for approval.

DATES: This rule is effective December 21, 2026, unless the EPA receives adverse comment by November 23, 2026. If the 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 December 21, 2026.

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

- **Federal eRulemaking Portal:** <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- **Email:** cosson.michael@epa.gov. Include the Docket ID No. [EPA–R09–UST–2025–0703] in the subject line of the message.

Instructions: The EPA's policy is that all comments received through email 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 for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal <https://www.regulations.gov>

website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the 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.

The EPA encourages electronic comment submittals, but if you are unable to submit electronically or need other assistance, please contact Michael Cosson, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index to the docket for this action and all documents that form the basis of this action and associated publicly available docket materials are available electronically at <https://www.regulations.gov>. For the documents that the EPA is incorporating by reference, use the search function to perform a search on the Docket ID number, EPA–R09–UST–2025–0703. For additional materials related to Nevada's UST Program revisions, search on EPA–R09–UST–2021–0597, a related Docket ID number.

The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Michael Cosson for alternative access to docket materials.

Please also contact Michael Cosson if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you. For further information on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Michael Cosson, RCRA Programs and Cleanup Branch, Land, Chemicals, and Redevelopment Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105; telephone number: (415) 972–3652; email address: cosson.michael@epa.gov. Please contact

Michael Cosson by phone or email for further information.

SUPPLEMENTARY INFORMATION:

I. Codification of Nevada's Approved Underground Storage Tank Program

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 programs 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 Nevada's UST Program?

The EPA originally approved the Nevada UST Program on December 24, 1992 (57 FR 61376). This approval was effective on March 30, 1993. The EPA then incorporated by reference and codified Nevada's approved UST program on July 17, 1998 (63 FR 38500), effective September 15, 1998. Nevada revised its UST program in response to revisions to the Federal UST regulations published in a final rule on July 15, 2015 (80 FR 41566). On November 20, 2018, in accordance with 40 CFR 281.51(a), Nevada submitted an application seeking the EPA's approval for its revised UST Program. On July 29, 2021, Nevada submitted amendments to the application, based on comments from the EPA. On September 30, 2021, the EPA granted final approval to Nevada's revised UST Program (86 FR 54107), effective November 29, 2021. Through this action, the EPA is amending 40 CFR 282.78 to incorporate by reference and codify Nevada's revised UST Program.

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

In this rule, the EPA is finalizing regulatory text that incorporates by reference Nevada's revised and federally approved UST Program. In accordance with the requirements of 1 CFR 51.5, the EPA is incorporating by reference Nevada's regulations as described in the

amendments to 40 CFR part 282 set forth below.

Specifically, in 40 CFR 282.78(d)(1)(i), the EPA is incorporating by reference portions of Nevada Administrative Code, Chapter 445A—Water Controls and Nevada Administrative Code, Chapter 459—Hazardous Materials. These regulations, which are part of Nevada's approved UST Program, establish the rules that Nevada uses to regulate underground storage tanks and in particular, to prevent and respond to releases from such tanks. The text of the regulations that EPA is incorporating by reference can be found in the document titled, "Nevada Regulatory Requirements Applicable to the Underground Storage Tank Program," dated July 29, 2021. This document is available through <https://www.regulations.gov> by searching on EPA-R09-UST-2025-0703 and by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** provision of this preamble. Section 282.78(d)(1)(ii) of 40 CFR identifies the Nevada statutes and regulations that are part of the approved UST Program, although not incorporated by reference for enforcement purposes. Section 282.78(d)(1)(iii) of 40 CFR identifies the Nevada statutory and regulatory provisions that are broader in scope and therefore not incorporated by reference.

Sections 282.78(d)(2) through (5) of 40 CFR reference the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, Program Description, and Memorandum of Agreement, which are part of Nevada's Application and part of the Nevada UST Program under subtitle I of RCRA. These materials are available through <https://www.regulations.gov> by searching on EPA-R09-UST-2021-0597, or by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** provision of this preamble.

D. What is the effect of the EPA's codification of the federally approved Nevada 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 Nevada, 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 Nevada's procedural and enforcement authorities,

although they are listed in 40 CFR 282.78(d)(1)(ii).

E. What is a "broader in scope" provision?

States may enact laws that are more stringent than their Federal counterparts (See RCRA section 9008, 42 U.S.C. 6991g). 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).

In addition, States may enact laws which are broader in scope than their Federal counterparts in accordance with 40 CFR 281.12(a)(3)(ii). State requirements that go beyond the scope of the Federal program are broader in scope. These requirements are not part of the federally approved program, and the EPA cannot enforce them. Although broader in scope requirements in Nevada's UST Program are enforceable by Nevada in accordance with Nevada law, they are not Federal RCRA requirements.

F. What State provisions are not part of the codification?

As discussed above in sections I.C. and I.E. of this preamble, some provisions of Nevada's UST Program are not part of the federally approved UST Program because they are broader in scope than the Federal UST Program. 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 in 40 CFR part 282 for purposes of enforcement (See 40 CFR 281.12(a)(3)(ii)). For reference and clarity, 40 CFR 282.78(d)(1)(iii) lists the Nevada statutory and regulatory provisions which are broader in scope than the Federal program. These provisions are, therefore, not part of the approved UST Program that the EPA is codifying. Although these provisions cannot be enforced by the EPA, Nevada will continue to implement and enforce such provisions under Nevada law.

II. Statutory and Executive Order (E.O.) Reviews

The EPA's action merely codifies Nevada's revised UST Program requirements pursuant to RCRA section 9004, and it does not impose additional requirements other than those imposed by Nevada law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because it is not significant under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is 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.*);

- Does 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);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is 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;

In addition, this action does 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. In those areas of Indian country, the final rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

This final action will be effective December 21, 2026.

List of Subjects in 40 CFR Part 282

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

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.

Michael Martucci,

Acting Regional Administrator, Region 9.

For the reasons set forth in the preamble, the 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 and republish § 282.78 to read as follows:

§ 282.78 Nevada State-Administered Program.

(a) *History of the approval of Nevada's program.* The State of Nevada (Nevada) is approved to administer and enforce an underground storage tank (UST) 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.* Nevada's Underground Storage Tank Program (UST Program), as administered by the Nevada Division of Environmental Protection (NDEP), was approved by the EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. The EPA approved the Nevada UST Program on December 24, 1992, and it was effective on March 30, 1993. A subsequent program revision received final approval from the EPA on September 30, 2021, and became effective on November 29, 2021.

(b) *Enforcement authority.* Nevada has primary responsibility for administering and enforcing its federally approved UST 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, Nevada must revise its approved UST 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 Nevada 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) *Final approval.* Nevada has final approval for the following elements of its UST Program, originally submitted to the EPA on October 1, 1992, and approved effective March 30, 1993, and the program revisions approved by the EPA effective on November 29, 2021:

(1) *State statutes and regulations.* (i) *Incorporation by reference.* The Nevada materials cited in this paragraph (d)(1)(i), and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information). You may obtain copies of the Nevada regulations that are incorporated by reference in this paragraph from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada 89701; telephone number: 775-684-3360; email: library@lcb.state.nv.us; website: <https://www.leg.state.nv.us>.

(A) Nevada Regulatory Requirements Applicable to the Underground Storage Tank Program, dated July 29, 2021.

(B) [Reserved]

(ii) *Legal basis.* The EPA considered the following statutes and regulations which provide the legal basis for Nevada's implementation of the UST Program. Although these statutes and regulations are part of the approved program, they are not being incorporated by reference for enforcement purposes and do not replace Federal authorities.

(A) *NRS, Chapter 439—Administration of Public Health*, Section 439.200 insofar as it establishes the authority of the State Board of Health to adopt and enforce public health regulations.

(B) *NRS, Chapter 445A—Water Controls*, Sections 445A.300 through 445A.730 insofar as they establish the authority of State agencies to control water pollution.

(C) *NRS, Chapter 445C—Environmental Requirements*, Sections 445C.010 through 445C.120 insofar as they establish certain liability protections for regulated persons performing environmental audits.

(D) *NRS, Chapter 459—Hazardous Materials*

(1) Section 459.485 insofar as it establishes duties of the State Environmental Commission.

(2) Sections 459.800 through 459.856 (except Sections 459.812(2), 459.820(2) 459.836(3), 459.838, and 459.840) insofar as they establish the authority of State agencies to regulate storage tanks.

(E) *Nevada Administrative Code (NAC), Chapter 445A—Water Controls*

(1) Sections 445A.2261, 445A.22615, and 445A.22633 insofar as these definitions are exclusive to NAC 445A and not necessary for interpreting the sections of NAC, Chapter 445A that are incorporated by reference.

(2) Sections 445A.2269, 445A.22691, 445A.22693, 445A.22705, 445A.2271 (except as it pertains to hazardous waste), 445A.2273 (except as it pertains to hazardous waste), and 445A.22745 insofar as they establish NDEP-specific procedures, requirements, and authorities related to the assessment of a release.

(3) Sections 445A.22695(2), 445A.22697, 445A.227, 445A.22725, and 445A.2275 insofar as they establish procedures and authorities related to corrective action.

(4) Sections 445A.2272 and 445A.22735 insofar as they establish procedures and requirements for determining action levels.

(5) Section 445A.22755 insofar as it provides for the holding of public hearings regarding corrective action.

(F) *NAC, Chapter 445C—Environmental Requirements* insofar as it concerns environmental audits and the administration of Nevada's Fund for Cleaning Up Discharges of Petroleum.

(G) *NAC, Chapter 459—Hazardous Materials*

(1) Sections 459.99288 and 459.9941 through 459.9944 insofar as they relate to delivery prohibition, a State-only enforcement option.

(2) Section 459.9948(3) insofar as it relates to the NDEP's authority to waive under-dispenser container requirements under certain circumstances.

(3) Sections 459.9988(2) and (3) insofar as they relate to authorities of the NDEP to require additional assessment.

(iii) *Other provisions not incorporated by reference.* The following statutory and regulatory provisions applicable to the Nevada UST Program are broader in scope than the Federal program. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference in this section:

(A) *NRS, Chapter 445C—Environmental Requirements, Cleanup of Discharged Petroleum*, Sections 445C.150 through 445C.410, are broader in scope than the Federal program insofar as they relate to the establishment and administration of Nevada's Fund for Cleaning Up Discharges of Petroleum, a State-only fund.

(B) *NRS, Chapter 459—Hazardous Waste Materials*, Disposal of Hazardous Waste

(1) Sections 459.812(2) and 459.820(2) are broader in scope than the Federal underground storage tank program insofar as these definitions are exclusive to aboveground storage tanks.

(2) Sections 459.836(3), 459.838, and 459.840 are broader in scope than the Federal program insofar as they are applicable to certain State-only fees and funds.

(C) *NAC, Chapter 445A—Water Controls*, Sections 445A.2271 and 445A.2273 are broader in scope to the extent that they pertain to hazardous waste, which is regulated under RCRA Subtitle C.

(D) *NAC, Chapter 459—Hazardous Materials*

(1) Section 459.99285 is broader in scope as to the definition of “marina storage tank” insofar as this is a type of aboveground storage tank that is not regulated under the Federal UST program.

(2) Sections 459.9933 through 459.9938 are broader in scope insofar as they include State-only provisions that only apply to marina storage tanks.

(2) *Statement of legal authority*. The Attorney General’s Statement, signed by a Nevada Senior Deputy Attorney General on November 2, 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 in the application on November 20, 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 dated November 2018, and as amended in July 2021, 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 9 and the NDEP, signed by the EPA Regional Administrator on April 3, 2019, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Amend appendix A to part 282 by revising the entry for Nevada to read as follows:

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

* * * * *

Nevada

- (a) The regulatory provisions include:
- (1) Nevada Administrative Code, Chapter 445A—Water Controls:
- Section 445A.226 Definitions.
- Section 445A.22605 “Action level” defined.
- Section 445A.2262 “Corrective action” defined.
- Section 445A.22625 “Director” defined.
- Section 445A.2263 “Division” defined.
- Section 445A.22635 “Groundwater” defined.
- Section 445A.2264 “Hazardous substance” defined.
- Section 445A.22645 “Hazardous waste” defined.
- Section 445A.2265 “Operator” defined.
- Section 445A.22655 “Owner” defined.
- Section 445A.2266 “Person” defined.
- Section 445A.22665 “Regulated substance” defined.
- Section 445A.2267 “Release” defined.
- Section 445A.22675 “Remediation standard” defined.
- Section 445A.2268 “Surface water” defined.
- Section 445A.22685 Applicability.
- Section 445A.22695 Immediate action required under certain circumstances; Director may waive certain requirements (except (2) insofar as it relates to the State’s authority to require immediate action).
- Section 445A.2274 Contamination of groundwater: Remediation standard.
- Section 445A.3451 “Confirmed release from an underground storage tank” defined.
- Section 445A.347 Notification required within 1 working day.
- (2) Nevada Administrative Code, Chapter 459—Hazardous Materials:
- Section 459.9921 Definitions.
- Section 459.9922 “Assessment” defined.
- Section 459.9924 “Corrective action” defined.
- Section 459.9925 “Department” defined.
- Section 459.9927 “Division” defined.
- Section 459.9928 “Groundwater” defined.
- Section 459.99283 “Listed” defined.
- Section 459.9929 “Underground storage tank” defined.
- Section 459.993 Federal regulations: Adoption by reference of certain provisions regarding underground storage tanks; compliance required.
- Section 459.9931 Adoption by reference of certain chapters of *International Fire Code*.
- Section 459.99395 Underground storage tanks: Designation of Class A operators, Class B operators and Class C operators.
- Section 459.99396 Underground storage tanks: Requirements for operator training and examination; records of completion of training and examination.
- Section 459.994 Underground storage tanks: Testing for tightness.
- Section 459.9945 Underground storage tanks: Secondary containment system

required for tank installed on or after July 1, 2008; exceptions.

Section 459.9946 Underground storage tanks: Secondary containment system required upon replacement of tank or piping; exceptions.

Section 459.9947 Underground storage tanks: Duties of owner or operator required to implement secondary containment.

Section 459.9948 Underground storage tanks: Under-dispenser container required for certain fuel dispenser systems; waiver of requirement under certain circumstances (except (3) insofar as it relates to the NDEP’s authority to waive requirements in certain situations).

Section 459.995 Financial responsibility of owners and operators.

Section 459.996 Releases: Reporting; protection of site; inspection by Division.

Section 459.9972 Assessment required before closure of tank; notice of contaminated soil or groundwater; removal of tank from ground.

Section 459.9985 No relief of responsibility to secure approval or permit.

Section 459.9988 Corrective action concerning soil or groundwater; assessment of contaminated soil or water (except (2) and (3) insofar as they relate to authorities of the NDEP to require additional assessment).

Section 459.999 Severability.

(b) [Reserved]

(c) Copies of the Nevada regulations that are incorporated by reference are available from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada 89701. telephone number: 775–684–3360; email: library@lcb.state.nv.us; website: <https://www.leg.state.nv.us>.

[FR Doc. 2026–21603 Filed 10–21–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260514–0235; RTID 0648–XF965]

Fisheries Off West Coast States; Modification of the West Coast Salmon Fisheries; Inseason Action #1–#11

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

ACTION: Inseason modification of 2026–2027 management measures.

SUMMARY: NMFS announces eleven inseason actions for 2026–2027 ocean salmon fisheries. These inseason actions modified the commercial salmon fisheries in the area from United States/Canada border to Cape Falcon, OR.

DATES: The effective dates for these inseason actions are set out in this