

States prior to publication of the rule 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 29, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements.

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

Dated: April 4, 2012.

**Mark J. Hague,**

*Acting Regional Administrator, Region 7.*

Dated: April 18, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart O—Illinois

■ 2. In § 52.726, paragraph (kk) is added to read as follows:

##### § 52.726 Control Strategy: Ozone.

\* \* \* \* \*

(kk) *Determination of attainment.* EPA has determined, as of June 9, 2011, that the St. Louis (MO-IL) metropolitan 1997 8-hour ozone nonattainment area has attained the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress, contingency measures, and other plan elements related to attainment of the standards for as long as the area continues to meet the 1997 Ozone NAAQS. In addition, based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, the St. Louis (MO-IL) ozone nonattainment area has

attained the 1997 8-hour ozone NAAQS by the applicable attainment date of June 15, 2010.

#### Subpart AA—Missouri

■ 3. In § 52.1342, paragraph (a) is revised to read as follows:

##### § 52.1342 Control strategy: Ozone.

(a) Determination of attainment. EPA has determined, as of June 9, 2011, that the St. Louis (MO-IL) metropolitan 1997 8-hour ozone nonattainment area has attained the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress, contingency measures, and other plan elements related to attainment of the standards for as long as the area continues to meet the 1997 Ozone NAAQS. In addition, based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, the St. Louis (MO-IL) ozone nonattainment area has attained the 1997 8-hour ozone NAAQS by the applicable attainment date of June 15, 2010.

\* \* \* \* \*

[FR Doc. 2012-10207 Filed 4-27-12; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 282

[EPA-R10-UST-2011-0097; FRL-9615-4]

#### Underground Storage Tank Program: Approved State Program for the State of Oregon

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

**ACTION:** Direct final rule.

**SUMMARY:** The Resource Conservation and Recovery Act of 1976 (RCRA), as amended, authorizes the United States Environmental Protection Agency (EPA) to grant approval to any State to operate its underground storage tank program in the State in lieu of the federal program. The regulation codifies EPA's decision to approve State programs and incorporates by reference those provisions of the State statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies the prior approval of Oregon's underground storage tank program and

incorporates by reference appropriate provisions of state statutes and regulations.

**DATES:** This regulation is effective June 29, 2012, unless EPA publishes a prior **Federal Register** document withdrawing this direct final rule. All comments on the codification of Oregon's underground storage tank program must be received by the close of business May 30, 2012. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of June 29, 2012, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Comments may be submitted, identified by Docket ID No. EPA-R10-UST-2011-0097, by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.

- Email: [griffith.katherine@epa.gov](mailto:griffith.katherine@epa.gov).

- Mail: Katherine Griffith, U. S.

Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: OCE-082, Seattle, WA 98101.

- Comments received by EPA may be inspected in the public docket online and in the EPA Region 10 Library, 1200 Sixth Avenue, Seattle, WA 98101, from 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-UST-2011-0097. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://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 <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identify or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov> your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD-ROM you submit. 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 or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy.

**FOR FURTHER INFORMATION CONTACT:**

Katherine Griffith, U. S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: OCE-082, Seattle, WA 98101, phone number: (206) 553-2901, email: [griffith.katherine@epa.gov](mailto:griffith.katherine@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c, authorizes the United States Environmental Protection Agency (EPA) to approve a State to operate its underground storage tank program in the State in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Oregon on September 16, 2011, and approval was effective on September 16, 2011 (76 FR 57659).

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein those provisions of the State statutes and regulations that are subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of Oregon's underground storage tank program. This codification reflects the State program in effect at the time EPA grants Oregon approval under section 9004, 42 U.S.C. 6991c, for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's

decision to approve the Oregon program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Oregon program and by amending the Code of Federal Regulations (CFR) whenever a new or different set of requirements is approved in Oregon, the status of federally-approved requirements of the Oregon program will be readily discernible. Only those provisions of the Oregon underground storage tank program EPA has approved will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Oregon's underground storage tank program, EPA has added § 282.87 to Title 40 of the CFR. Section 282.87(d)(1)(i) incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.87 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

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 actions, inspections and enforcement in approved States. With respect to such actions, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the State authorized analogues to these provisions. Therefore, the approved Oregon enforcement authorities will not be incorporated by reference. Section 282.87 lists those approved Oregon authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally-approved State program, because such provisions are "broader in scope" than subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, State provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in Part 282. Section 282.87 of the codification simply lists for reference and clarity the Oregon statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope"

provisions cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions.

**B. Statutory and Executive Order Review**

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

*1. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this rule from its review under Executive Order 12866.

*2. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this rule does not establish or modify any information or recordkeeping requirements for the regulated community and only seeks to authorize the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

*3. Regulatory Flexibility Act*

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities because the rule will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

*4. Unfunded Mandates Reform Act*

Because today's rulemaking codifies pre-existing requirements under Oregon state law and does not impose any additional enforceable duty beyond that required by Oregon state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

*5. Executive Order 13132: Federalism*

Executive Order 13132 does not apply to this rule because this final rule does not have Federalism implications. It 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 various levels of government.

**6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments**

Executive Order 13175 does not apply because this rule does not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes). EPA retains its authority in Indian Country.

**7. 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 health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it will codify a state program.

**8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use**

This rule is not subject to Executive Order 13211 because it is not a “significant regulatory action” as defined under Executive Order 12866.

**9. National Technology Transfer and Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), (15 U.S.C. 272), directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, the NTTAA does not apply.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this rule will not have disproportionately high and

adverse human health or environmental effects on minority or low-income populations. This rule does not affect the level of protection provided to human health or the environment because this rule codifies pre-existing State rules which are no less stringent than existing Federal requirements.

**11. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today’s **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 282**

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks and Water pollution control.

**Authority:** This document is issued under the authority of Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c.

Dated: April 10, 2012.

**Dennis J. McLerran,**  
Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 282 is 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.

**Subpart B—Approved State Programs**

■ 2. Add § 282.87 to subpart B to read as follows:

**§ 282.87 Oregon State-Administered Program.**

(a) The State of Oregon 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 Oregon Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of

final determination approving the Oregon underground storage tank program on September 16, 2011, and it became effective on that date.

(b) Oregon has primary responsibility for enforcing its 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 its authority under other statutory and regulatory provisions.

(c) To retain program approval, Oregon 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 Oregon 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) Oregon has final approval for the following elements submitted to EPA in its program application as of September 16, 2011.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* with the approval of the Director of the **Federal Register** under 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in this section, the Environmental Protection Agency must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of the material at NARA, call 202–741–6030 or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). Copies of Oregon’s program application may be obtained from the Underground Storage Tank Program, Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon, 97204.

(A) Oregon Statutory Requirements Applicable to the Underground Storage Tank Program, 2009.

(B) Oregon Regulatory Requirements Applicable to the Underground Storage Tank Program, 2009.

(ii) EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include: (1) Oregon Revised Statutes, Chapter 183, Administrative Procedures Act, 2009, insofar as the provisions and procedures apply to the underground storage tank program.

(2) Chapter 465, Hazardous Waste and Hazardous Materials I (Removal or Remedial Action: Sections 465.200–465.482 and 465.900), insofar as these provisions apply to matters involving an “underground storage tank” as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved state program, although not incorporated by reference herein for enforcement purposes: Sections 465.205 through 465.250, 465.257 through 465.300, 465.310 through 465.335, 465.400 through 465.435, 465.445 through 465.455 and 465.900.

(3) Chapter 466, Hazardous Waste and Hazardous Materials II (Oil Storage Tanks: Sections 466.706–466.920 and Sections 466.990–466.995), insofar as these provisions apply to matters involving an “underground storage tank” as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved state program, although not incorporated by reference herein for enforcement purposes: Sections 466.715 through 466.735, 466.746, 466.760, 466.775 through 466.780, 466.791 through 466.810, 466.820, 466.830 through 466.845, 466.901 through 466.920 and 466.994 through 466.995.

(4) Chapter 468 Environmental Quality Generally, insofar as these provisions apply to matters involving an “underground storage tank” as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved state program, although not incorporated by reference herein for enforcement purposes: Sections 468.005 through 468.050, 468.090 through 468.140 and 468.963.

(B) The regulatory provisions include:

(1) Oregon Administrative Rules, Chapter 340, Division 11: Section 340–11–0545

(2) Oregon Administrative Rules, Chapter 340, Division 12: Sections 340–012–0026 through 340–012–0053, 340–

012–0067 (with the exception of subparagraphs (1) (k) and (l) and (2) (g) through (j)), 340–012–0074 (with the exception of subparagraph (1) (g)) and 340–012–0170 insofar as this applies to violations involving an underground storage tank.

(3) Oregon Administrative Rules, Chapter 340, Division 122: Sections 340–122–0074 through 340–122–0079 and 340–122–0130 through 340–122–0140.

(4) Oregon Administrative Rules, Chapter 340, Division 142: Section 340–142–0120.

(5) Oregon Administrative Rules, Chapter 340, Division 150: Sections 340–150–0150 through 340–150–0152, 340–150–0250, 340–150–0600 through 340–150–0620.

(6) Oregon Code of Civil Procedure 33C

(7) Oregon Administrative Rules, Chapter 690, Division 240, insofar as these provisions apply to matters involving an “underground storage tank” as that term is defined in ORS 466.706(21), as limited by the exclusions listed in ORS 466.710, except that the term does not include a tank used for storing heating oil for consumptive use on the premises where stored. The following Sections are part of the approved state program, although not incorporated by reference herein for enforcement purposes: Sections 690–240–0015, 690–240–0020, 690–240–0055 through 690–240–0340 and 690–240–0560 through 690–240–0640.

(iii) The following specifically identified sections and rules applicable to the Oregon underground storage tank program that are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Chapter 465, Hazardous Waste and Hazardous Materials I (Removal or Remedial Action): Sections 465.305; 465.340 through 465.391; 465.440; and 465.475 through 465.482.

(2) Chapter 466, Hazardous Waste and Hazardous Materials II (Oil Storage Tanks): Sections 466.750; 466.783 through 466.787; 466.858 through 466.882; and 466.990 through 466.992).

(3) Chapter 468, Environmental Quality Generally: Sections 468.055 through 468.089:

(B) The regulatory provisions include:

(1) Oregon Administrative Rules, Chapter 340: Divisions 160, 162, 163, 170, 177 and 178.

(2) Oregon Administrative Rules, Chapter 837, Division 40.

(2) Statement of legal authority. The Attorney General Statement, a letter

signed on June 21, 2010, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA,

42 U.S.C. 6991 *et seq.*

(3) Demonstration of procedures for adequate enforcement. The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the application for approval on July 19, 2010, 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 application on July 19, 2010, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 10 and the Oregon Department of Environmental Quality, signed by the EPA, Regional Administrator on July 11, 2011, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Appendix A to Part 282 is amended by adding in alphabetical order “Oregon” and its listing.

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

\* \* \* \* \*

#### Oregon

(a) The statutory provisions include:

(1) Chapter 465, Hazardous Waste and Hazardous Materials I (Removal or Remedial Action Sections 465.200 through 465.482 and 465.900.):

465.200 Definitions for ORS 465.200 to 465.545 (except for Sections 465.200(5) through (11) and (17) defining terms contained in the dry cleaning requirements; (13) “facility” insofar as it applies to a facility that is not an underground storage tank; (16) “hazardous substance” insofar as it applies to hazardous wastes and any substance that is not otherwise defined as a hazardous substance pursuant to section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act or that is not oil; (28) “underground storage tank” insofar as it includes any tank or piping that is excluded under ORS 466.710 and also any tank used to store heating oil for consumptive use on the premises where stored.)

465.255 Strict liability for remedial action costs for injury or destruction of natural

resource; limited exclusions (except insofar as this includes a person who is not an owner or operator of an underground storage tank and except insofar as the exclusions would exclude persons who would be liable under Section 9003(h)(6) of RCRA).

(2) Chapter 466, Hazardous Waste and Hazardous Materials II (Oil Storage Tanks): 466.706 Definitions for ORS 466.706 to 466.882 and 466.994 (except for the following definitions: Section 466.706(17) "regulated substance" insofar as it would include substances designated by the commission under subsection (c) that are not included under subsections (a) and (b) of this definition; (21) "underground storage tank" insofar as it includes any tank or piping that is excluded under ORS 466.710, and any tank used to store heating oil for consumptive use on the premises where stored.)

466.710 Application of ORS 466.706 to 466.882 and 466.994

466.740 Noncomplying installation prohibited

466.743 Training on operation, maintenance and testing; rules

466.765 Duty of owner or permittee of underground storage tank

466.770 Corrective action required on contaminated site

466.815 Financial responsibility of owner or permittee; rules; legislative review

466.825 Strict liability of owner or permittee

(b) The regulatory provisions include:

(1) Oregon Administrative Rules, Chapter 340, Division 122 insofar as the following rules apply to a release from an underground storage tank, excluding tanks used to store heating oil for consumptive use on the premises where stored.

340-122-0010 Purpose  
340-122-0030 Scope and Applicability  
340-122-0040 Standards  
340-122-0047 Generic remedies  
340-122-0050 Activities  
340-122-0070 Removal  
340-122-0071 Site Evaluation  
340-122-0072 Preliminary Assessments  
340-122-0073 Confirmation of Release  
340-122-0080 Remedial Investigation  
340-122-0084 Risk Assessment  
340-122-0085 Feasibility Study  
340-122-0090 Selection or Approval of the Remedial Action  
340-122-0100 Public Notice and Participation  
340-122-0110 Administrative Record  
340-122-0115 Definitions insofar as the definition applies to an underground storage tank, excluding tanks used to store heating oil for consumptive use on the premises where stored  
340-122-0120 Security Interest Exemption  
340-122-0205 Purpose  
340-122-0210 Definitions except insofar as the definition of "responsible person" includes a person who does not own or operate an underground storage tank  
340-122-0215 Scope and Applicability  
340-122-0217 Requirements and Remediation Options  
340-122-0218 Sampling and Analysis  
340-122-0220 Initial Response  
340-122-0225 Initial Abatement Measures and Site Check

340-122-0230 Initial Site Characterization  
340-122-0235 Free Product Removal  
340-122-0240 Investigation for Magnitude and Extent of Contamination  
340-122-0243 Low-Impact Sites  
340-122-0244 Risk-Based Concentrations  
340-122-0250 Corrective Action Plan  
340-122-0252 Generic Remedies  
340-122-0260 Public Participation  
340-122-0320 Soil Matrix Cleanup Options  
340-122-0325 Evaluation of Matrix Cleanup Level  
340-122-0330 Evaluation Parameters  
340-122-0335 Numeric Soil Cleanup Standards  
340-122-0340 Sample Number and Location  
340-122-0345 Sample Collection Methods  
340-122-0355 Evaluation of Analytical Results  
340-122-0360 Reporting Requirements  
Grid for OAR 340-122-0330(5)(c) and Table for OAR 340-122-0335(2)

(2) Oregon Administrative Rules, Chapter 340, Division 142 insofar as the following rules apply to a release from an underground storage tank, excluding tanks used to store heating oil for consumptive use on the premises where stored.

340-142-0001 Purpose and Scope  
340-142-0005 Definitions as Used in This Division Unless Otherwise Specified  
340-142-0030 Emergency Action  
340-142-0040 Required Reporting  
340-142-0050 Reportable Quantities  
340-142-0060 Cleanup Standards  
340-142-0070 Approval Required for Use of Chemicals  
340-142-0080 Disposal of Recovered Spill Materials  
340-142-0090 Cleanup Report  
340-142-0100 Sampling/Testing Procedures  
340-142-0130 Incident Management and Emergency Operations

(3) Oregon Administrative Rules, Chapter 340, Division 150.

340-150-0001 Purpose  
340-150-0006 Applicability and General Requirements  
340-150-0008 Exemptions and Deferrals  
340-150-0010 Definitions  
340-150-0020 UST General Permit  
Registration Certificate Required except insofar as this provision applies to a person who does not own or operate an underground storage tank and except insofar as the payment of fees is required  
340-150-0021 Termination of Temporary Permits  
340-150-0052 Modification of Registration Certificates for Changes in Ownership and Permittee except insofar as the payment of fees is required  
340-150-0080 Denial, Suspension or Revocation of General Permit  
Registration Certificates except insofar as this provision applies to a person who does not own or operate an underground storage tank  
340-150-0102 Termination of Registration Certificates  
340-150-0110 UST General Permit  
Registration, Annual Compliance and Other Fees except insofar as the payment of fees is required

340-150-0135 General Requirements for Owners and Permittees  
340-150-0140 Requirements for Sellers of USTs  
340-150-0156 Performance of UST Services by Owners or Permittees  
340-150-0160 General Permit  
Requirements for Installing an UST System except insofar as this provision applies to a person who does not own or operate an underground storage tank  
340-150-0163 General Permit  
Requirements for Operating an UST System except insofar as the payment of fees is required  
340-150-0166 General Permit  
Requirements for Closure of an UST System by Change-in-Service except insofar as the payment of fees is required  
340-150-0167 General Permit  
Requirements for Temporary Closure of an UST System except insofar as the payment of fees is required  
340-150-0168 General Permit  
Requirements for Decommissioning an UST System by Permanent Closure except insofar as this provision applies to a person who does not own or operate an underground storage tank and except insofar as the payment of fees is required  
340-150-0180 Site Assessment  
Requirements for Permanent Closure or Change-in-Service  
340-150-0200 Training Requirements for UST System Operators and Emergency Response Information  
340-150-0210 Training Requirements for UST Operators  
340-150-0300 Installation of USTs and Piping  
340-150-0302 Installation of Used USTs  
340-150-0310 Spill and Overfill Prevention Equipment and Requirements  
340-150-0320 Corrosion Protection  
Performance Standards for USTs and Piping  
340-150-0325 Operation and Maintenance of Corrosion Protection  
340-150-0350 UST System Repairs  
340-150-0352 UST System Modifications and Additions  
340-150-0354 UST System Replacements  
340-150-0360 Requirements for Internally Lined USTs  
340-150-0400 General Release Detection  
Requirements for Petroleum UST Systems  
340-150-0410 Release Detection  
Requirements and Methods for Underground Piping  
340-150-0420 Release Detection  
Requirements for Hazardous Substance UST Systems  
340-150-0430 Inventory Control Method of Release Detection  
340-150-0435 Statistical Inventory  
Reconciliation Method of Release Detection  
340-150-0440 Manual Tank Gauging  
Release Detection Method  
340-150-0445 Tank Tightness Testing for Release Detection and Investigation  
340-150-0450 Automatic Tank Gauging  
Release Detection Method  
340-150-0455 Vapor Monitoring Release Detection Method

340–150–0460 Groundwater Monitoring Release Detection Method

340–150–0465 Interstitial Monitoring Release Detection Method

340–150–0470 Other Methods of Release Detection

340–150–0500 Reporting Suspected Releases

340–150–0510 Suspected Release Investigation and Confirmation Steps

340–150–0520 Investigation Due to Off Site Impacts

340–150–0540 Applicability to Previously Closed UST Systems

340–150–0550 Definitions for OAR 340–150–0555 and 340–150–0560

340–150–0555 Compliance Dates for USTs and Piping

340–150–0560 Upgrading Requirements for Existing UST Systems

APPENDIX A Installation of USTs and Piping

APPENDIX B Installation of USTs and Piping

APPENDIX C Spill and Overfill Prevention Equipment and Requirements

APPENDIX D1 USTs Corrosion Protection Performance Standards for USTs and Piping

APPENDIX D2 Piping Corrosion Protection Performance Standards for USTs and Piping

APPENDIX E1 USTs Corrosion Protection Performance Standards for USTs and Piping

APPENDIX E2 Piping Corrosion Protection Performance Standards for USTs and Piping

APPENDIX F Corrosion Protection Performance Standards for USTs and Piping

APPENDIX G Operation and Maintenance of Corrosion Protection

APPENDIX H UST System Repairs & UST System Modifications and Additions

APPENDIX I General Release Detection Requirements for All UST Systems

APPENDIX J General Guidance Documents for UST Owners and Permittees

APPENDIX K Site Assessment Requirements for Permanent Closure or Change-in-Service

APPENDIX L Training Elements

(4) Oregon Administrative Rules, Chapter 340, Division 151

340–151–0001 Purpose

340–151–0010 Scope and Applicability

340–151–0015 Adoption and Applicability of United States Environmental Protection Agency Regulations

340–151–0020 Definitions

340–151–0025 Oregon-Specific Financial Responsibility Requirements

(5) Oregon Administrative Rules, Chapter 690, Division 240, insofar as it pertains to underground storage tanks, excluding tanks used to store heating oil for consumptive use on the premises where stored.

690–240–0005 Introduction

690–240–0006 Special Standards

690–240–0007 Special Area Standards

690–240–0010 Definitions

690–240–0011 Organic Materials

690–240–0012 Public Safety

690–240–0013 Wells Cannot Be Used for Disposal of Contaminants

690–240–0014 Water Used Must Be Potable

690–240–0016 Unattended Wells

690–240–0024 Well Identification Label

690–240–0026 Well Identification Label Maintenance

690–240–0030 Other Holes; General Performance and Responsibility Requirements

690–240–0035 Geotechnical Holes: General Performance and Responsibility Requirements

690–240–0355 Monitoring Well Drilling Machines

690–240–0375 Monitoring Well Construction Notice Required (Start Card)

690–240–0385 Start Card Reporting Requirements

690–240–0395 Monitoring Well Report Required (Monitoring Well Log)

690–240–0410 Monitoring Well Construction: General

690–240–0420 Well Protection

690–240–0430 Casing

690–240–0440 Additional Standards for Artesian Monitoring Wells

690–240–0450 Cleaning

690–240–0460 Monitoring Well Screen, Filter Pack, and Filter Pack Seal

690–240–0475 Well Seals

690–240–0485 Monitoring Well Development

690–240–0500 Completion of Monitoring Wells

690–240–0510 Abandonment of Monitoring Wells

690–240–0525 Piezometers

690–240–0540 Direct Push Monitoring Wells and Piezometers

690–240–0550 Evidence of Failure

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 375

[Docket No. FMCSA–2012–0101]

RIN 2126–AB51

### Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations: Released Rates of Motor Carriers of Household Goods

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** FMCSA harmonizes its regulations with a recent Surface Transportation Board (STB) order that requires certain information about household goods motor carrier liability to appear on the estimates and bills of lading that carriers must provide to individual shippers.

**DATES:** This final rule is effective May 15, 2012.

**ADDRESSES:** Documents mentioned in this rule are available for inspection or copying in the docket, Docket No. FMCSA–2012–0101 available at [www.regulations.gov](http://www.regulations.gov), and at the Docket Management Facility, U.S. Department of Transportation, Ground floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brodie Mack, FMCSA Household Goods Enforcement and Compliance Team Leader, (202) 385–2400, email: [Brodie.Mack@dot.gov](mailto:Brodie.Mack@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Legal Basis for the Rulemaking

The Secretary of Transportation's (Secretary) general jurisdiction to establish regulations over transportation of property by motor carrier is found at 49 U.S.C. 13501. Household goods motor carriers are a subset of all property motor carriers and are required by 49 U.S.C. 13902 to register with FMCSA as household goods motor carriers.

The ICC Termination Act of 1995 (Pub. L. 104–88, 109 Stat. 803, Dec. 29, 1995) abolished the Interstate Commerce Commission (ICC), which previously had jurisdiction over the commercial activities of household goods motor carriers. Its functions relating to household goods carriers were split between the STB and the Secretary. The STB was given jurisdiction over most tariff issues, while the Secretary was given jurisdiction over consumer protection matters.

The Secretary has delegated these authorities to the FMCSA Administrator (49 CFR 1.73(a)). This rulemaking applies only to household goods motor carriers that provide for-hire transportation in interstate or foreign commerce.

FMCSA implements this final rule without notice and comment pursuant to 5 U.S.C. 553(b)(B). While the Administrative Procedure Act (APA) normally requires issuance of a notice of proposed rulemaking and an opportunity for public comment, the APA provides an exception when an agency “for good cause finds \* \* \* that notice and public procedure \* \* \* are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). This final rule updates 49 CFR part 375 to reflect recent changes the STB made to its requirements after engaging in notice and comment