

■ 2. Amend § 170.305 by revising the definition of *Application Exclusion Zone* to read as follows:

**§ 170.305 Definitions.**

\* \* \* \* \*

*Application exclusion zone* means the area surrounding the application equipment from which persons generally must be excluded during pesticide applications.

\* \* \* \* \*

■ 3. Amend § 170.405 by removing paragraph (a)(1)(i)(D), and revising paragraphs (a)(1)(i)(B), (a)(1)(i)(C), (a)(1)(ii), and (a)(2) to read as follows:

**§ 170.405 Entry restrictions associated with pesticide applications.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(i) \* \* \*

(A) \* \* \*

(B) Air blast or air-propelled applications.

(C) As a fumigant, smoke, mist, or fog.

(ii) The application exclusion zone is the area that extends 25 feet horizontally from the application equipment in all directions during application when the pesticide is applied as a spray from a height greater than 12 inches from the soil surface or planting medium and not as in paragraph (a)(1)(i) of this section.

\* \* \* \* \*

(2) During any outdoor production pesticide application, the agricultural employer must not allow or direct any worker or other person to enter or to remain in the treated area or an application exclusion zone that is within the boundaries of the establishment until the application is complete, except for:

(i) An appropriately trained and equipped handler involved in the application, and

(ii) A person not employed by the establishment who is in an area subject to an easement that prevents the agricultural employer from temporarily excluding the person from that area.

\* \* \* \* \*

■ 3. Amend § 170.501 by revising paragraph (c)(3)(xi) to read as follows:

**§ 170.501 Training requirements for handlers.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(xi) Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone within the boundaries of the agricultural establishment and must not resume the application while workers or

other persons remain in the application exclusion zone within the boundaries of the agricultural establishment, except for an appropriately trained and equipped handler involved in the application, and a person not employed by the establishment who is in an area subject to an easement that prevents the agricultural employer from temporarily excluding the person from that area.

\* \* \* \* \*

■ 4. Amend § 170.505 by revising paragraph (b) to read as follows:

**§ 170.505 Requirements during applications to protect handlers, workers, and other persons.**

\* \* \* \* \*

(b) *Suspending applications.* (1) Any handler performing a pesticide application must immediately suspend the pesticide application if any worker or other person, other than an appropriately trained and equipped handler involved in the application, is in an application exclusion zone described in § 170.405(a)(1) that is within the boundaries of the agricultural establishment or the area specified in column B of the Table in § 170.405(b)(4), except for:

(i) An appropriately trained and equipped handler involved in the application, and

(ii) A person not employed by the establishment who is in an area subject to an easement that prevents the agricultural employer from temporarily excluding the person from that area.

(2) A handler must not resume a suspended pesticide application while any workers or other persons (other than appropriately trained and equipped handlers involved in the application) remain in an application exclusion zone described in § 170.405(a)(1) that is within the boundaries of the agricultural establishment or the area specified in column B of the Table in § 170.405(b)(4), except for persons not employed by the establishment in an area subject to an easement that prevents the agricultural employer from temporarily excluding those persons from that area.

\* \* \* \* \*

■ 5. Amend § 170.601 by revising paragraph (a)(1) to read as follows:

**§ 170.601 Exemptions.**

(a) \* \* \*

(1) On any agricultural establishment where a majority of the establishment is owned by one or more members of the same immediate family, the owner(s) of the establishment are not required to provide the protections of the following provisions to themselves or members of their immediate family when they are

performing handling activities or tasks related to the production of agricultural plants that would otherwise be covered by this part on their own agricultural establishment.

(i) Section 170.309(c).

(ii) Section 170.309(f) through (j).

(iii) Section 170.311.

(iv) Section 170.401.

(v) Section 170.403.

(vi) Section 170.405(a).

(vii) Section 170.409.

(viii) Sections 170.411 and 170.509.

(ix) Section 170.501.

(x) Section 170.503.

(xi) Section 170.505(c) and (d).

(xii) Section 170.507(c) through (e).

(xiii) Section 170.605(a) through (c), and (e) through (j).

\* \* \* \* \*

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**ENVIRONMENTAL SERVICES AGENCY**

**40 CFR Part 282**

[EPA-R01-UST-2019-0421; FRL-10001-59-Region 1]

**New Hampshire: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference**

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Services Agency (EPA) is proposing to approve revisions to the State of New Hampshire's Underground Storage Tank (UST) program submitted by the New Hampshire Department of Environmental Services (NHDES). This action is based on EPA's determination that these revisions satisfy all requirements needed for program approval. This action also proposes to codify EPA's approval of New Hampshire's state program and to incorporate by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions 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.

**DATES:** Send written comments by December 2, 2019.

**ADDRESSES:** Submit any comments, identified by EPA-R01-UST-2019-0421, by one of the following methods:

1. *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email*: [hanamoto.susan@epa.gov](mailto:hanamoto.susan@epa.gov).

3. *Mail*: Susan Hanamoto, RCRA Waste Management, UST, and Pesticides Section; Land, Chemicals, and Redevelopment Division; EPA Region 1, 5 Post Office Square, Suite 100, (Mail Code 07-1), Boston, MA 02109-3912.

4. *Hand Delivery or Courier*: Deliver your comments to Susan Hanamoto, RCRA Waste Management, UST, and Pesticides Section; Land, Chemicals, and Redevelopment Division; EPA Region 1, 5 Post Office Square, Suite 100, (Mail Code 07-1), Boston, MA 02109-3912.

*Instructions*: Direct your comments to Docket ID No. EPA-R01-UST-2019-0421. EPA's policy is that all comments received will be included in the public docket without change and may be 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 Federal <http://www.regulations.gov> Website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an 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, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this

codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA Region 1 Library, 5 Post Office Square, 1st floor, Boston, MA 02109-3912; by appointment only; tel: (617) 918-1990. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:** Susan Hanamoto, (617) 918-1219; email address: [hanamoto.susan@epa.gov](mailto:hanamoto.susan@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**.

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

Dated: October 7, 2019.

**Dennis Deziel,**

*Regional Administrator, EPA Region 1.*

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