

those states that have been delegated authority by EPA to administer the UST program pursuant to 42 U.S.C. 6991c and 40 CFR part 281.

**PART 281—APPROVAL OF STATE UNDERGROUND STORAGE TANK PROGRAMS**

1. The authority citation for part 281 is revised to read as follows:

**Authority:** 42 U.S.C. 6912, 6991 (c), (d), (e), (g).

**Subpart C—[Amended]**

2. Section 281.39 is added to subpart C to read as follows:

**§ 281.39 Lender liability.**

(a) A state program that contains a security interest exemption will be

considered to be no less stringent than, and as broad in scope as, the federal program provided that the state's exemption:

(1) Mirrors the security interest exemption provided for in 40 CFR part 280, subpart I; or

(2) Achieves the same effect as provided by the following key criteria:

(i) A holder, meaning a person who maintains indicia of ownership primarily to protect a security interest in a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located, who does not participate in the management of the UST or UST system as defined under § 280.210 of this chapter, and who does not engage in petroleum production, refining, and

marketing as defined under § 280.200(b) of this chapter is not:

(A) An "owner" of a petroleum UST or UST system or facility or property on which a petroleum UST or UST system is located for purposes of compliance with the requirements of 40 CFR part 280; or

(B) An "operator" of a petroleum UST or UST system for purposes of compliance with the requirements of 40 CFR part 280, provided the holder is not in control of or does not have responsibility for the daily operation of the UST or UST system.

(ii) [Reserved]

(b) [Reserved]

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