

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT

REPORT OF PROCEEDINGS OF PUBLIC HEARING
ON PROPOSED AMENDMENTS TO:

15A NCAC 02N .0304 –
IMPLEMENTATION SCHEDULE FOR PERFORMANCE STANDARDS FOR
NEW UST SYSTEMS AND UPGRADING REQUIREMENTS FOR EXISTING
UST SYSTEMS LOCATED IN AREAS DEFINED IN RULE .0301(D)

15A NCAC 02N .0903 –
PERFORMANCE STANDARDS FOR UST SYSTEM OR UST SYSTEM
COMPONENT INSTALLATION OR REPLACEMENT COMPLETED ON OR
AFTER NOVEMBER 1, 2007 - TANKS

15A NCAC 02N .0904 –
PERFORMANCE STANDARDS FOR UST SYSTEM OR UST SYSTEM
COMPONENT INSTALLATION OR REPLACEMENT COMPLETED ON OR
AFTER NOVEMBER 1, 2007 - PIPING

MARCH 12, 2015
RALEIGH, NC

ENVIRONMENTAL MANAGEMENT COMMISSION

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SUMMARIES AND RECOMMENDATION

Background and Summary

A public hearing was held in Raleigh, NC on December 4, 2014, to take public comments on amendments to certain rules governing underground storage tank (UST) systems. Mr. Donnie Redmond from the Division of Air Quality was appointed and acted as the hearing officer for this hearing.

The Department of Environment and Natural Resources (DENR) implements and enforces rules relating to underground storage tank (UST) systems including standards and requirements applicable to existing and new UST systems.

The rule changes being considered impact the underground storage tank secondary containment rules found in 15A NCAC 02N, specifically 15A NCAC 02N .0304, .0903, and .0904.

Session Law 2011-394 [Sections 11.4(c), 11.6(a), 11.6(b) and 11.7(a)] directed the EMC to adopt several changes to rules governing UST systems. SL 2011-394 stated that the rule changes must be substantively identical to the provisions of the Act. SL 2013-413, Section 36 clarified the universe of USTs subject to the rule change directed by SL 2011-394, Section 11.6(a).

The rule changes will, in essence:

- Extend the deadline to upgrade secondary containment for certain tanks to January 1, 2020
- Establish a variance process for certain tanks having to upgrade by January 1, 2020
- Allow cathodically protected double-walled steel tanks to be installed
- Eliminate the requirement that all piping be replaced when a tank is replaced
- Eliminate the requirement that all piping be replaced when a section of piping is replaced or extended

Public Comments and Responses Thereto

Only one set of comments was received during the public hearing and in the 30-day comment period afterwards.

Comment: Mr. Douglas Howey of the North Carolina Petroleum & Convenience Marketers commented in favor of the proposed rules as written.

Response: The commenter agrees with the amendments proposed by the EMC. No change to the rule is recommended.

Conclusion

Only one set of comments was received; it was in favor of the proposed rules as written.

Hearing Officer's Recommendation

The Hearing Officer recommends that the proposed amendments as presented in this hearing report be adopted by the Environmental Management Commission.

Introduction

The Department of Environmental and Natural Resources, Division of Waste Management, held a public hearing on December 4, 2014 at 4:00pm at the Training Room #1210, DENR Green Square Office Building, 217 West Jones Street, Raleigh, NC 27603.

The hearing considered the proposed amendment to Rule 15A NCAC 02N .0304, 0903, and .0904. The proposed effective date for these rules is projected to be June 1, 2015.

A public notice announcing this hearing was posted to the Divisions website. The public notice was also published in the North Carolina Register at least 20 days before the public hearing.



ENVIRONMENTAL MANAGEMENT COMMISSION

**NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES**

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Julie A. Wilsey

November 24, 2014

MEMORANDUM

TO: Donnie Redmond
FROM: Benne C. Hutson *Benne C. Hutson*
SUBJECT: Hearing Officer Appointment, Changes to UST Secondary Containment Rules

I hereby designate you to serve as hearing officer for the public hearing to be held on the proposed changes to the UST Secondary Containment Rules 15A NCAC 02N .0304, .0903, and .0904. Staff will be contacting you to discuss the process and establish the date, time, and location of the public hearing. Please present your findings and recommendations to the Environmental Management Commission.

Thank you for your assistance and service.

cc: Jeff Manning, DWR
Lois Thomas, DWR
Sheila Holman, DAQ
Andria Merritt, DWM

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November 3, 2014

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authorized delegates or subagent sub-delegates in this State. State; and

- (3) Such other information as may be required by the Commissioner to evaluate the licensee's money transmission activities.

Authority G.S. 53-208.12; 53-208.15; 53-208.27.

04 NCAC 03F .0506 REVOCATION OR CANCELLATION OF SURETY BOND

(a) No later than 30 days after the renewal of its surety bond, a licensee shall file pursuant to Rule .0201(b) of this Subchapter:

- (1) a certificate of continuation of the surety bond required by G.S. 53-208.8; or
- (2) evidence of continued compliance with G.S. 53-208.8(b) which shall consist of a safekeeping receipt received directly from the trustee of securities with a par value equal to the amount of the surety bond in G.S. 53-208.8.

(b) A licensee shall notify the Commissioner in writing of revocation or cancellation of its surety bond furnished pursuant to G.S. ~~53-208.8~~, 53-208.8, no later than 10 business days after revocation or cancellation.

Authority 53-208.8; 53-208.27.

04 NCAC 03F .0507 CEASING OPERATIONS

A licensee shall immediately notify the Commissioner in writing of its decision to cease operations in this State under the Money Transmitters Act.

Authority G.S. 53-208.27.

04 NCAC 03F .0509 DISHONOR OR DEFAULT

A licensee shall immediately notify the Commissioner in writing within two business days if it dishonors or defaults in the payment of any check sold or issued any monetary transmission because it lacks the funds to honor the check; transmission.

Authority G.S. 53-208.15; 53-208.27.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02N .0304 and .0903-.0904.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://portal.ncdenr.org/web/wm/ust/whatsnew>

Proposed Effective Date: June 1, 2015

Public Hearing:

Date: December 4, 2014

Time: 4:00 p.m.

Location: Green Square Building, Room 1210, 217 West Jones Street, Raleigh, NC 27603

Reason for Proposed Action: *The proposed rule changes are necessary to comply with a directive from the North Carolina General Assembly to amend certain secondary containment requirements contained in 15A NCAC 02N. The proposed rules must be substantively identical to the provisions of Session Law 2011-394 and Session Law 2013-413.*

Comments may be submitted to: Ruth Strauss, NCDENR Division of Waste Management, 1637 Mail Service Center, Raleigh, NC 27699-1637

Comment period ends: January 2, 2015

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
 Environmental permitting of DOT affected
 Analysis submitted to Board of Transportation
 Local funds affected
 Substantial economic impact (≥\$1,000,000)
 No fiscal note required by G.S. 150B-21.4

CHAPTER 02 – ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02N – UNDERGROUND STORAGE TANKS

SECTION .0300 – UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION

15A NCAC 02N .0304 IMPLEMENTATION SCHEDULE FOR PERFORMANCE STANDARDS FOR NEW UST SYSTEMS AND UPGRADING REQUIREMENTS FOR EXISTING UST SYSTEMS LOCATED IN AREAS DEFINED IN RULE .0301(D)

(a) The following implementation schedule shall apply only to owners and operators of UST systems located within areas defined in Rule .0301(d) of this Section. This implementation schedule shall be used by the Department for tank owners and

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operators to comply with the secondary containment requirements contained in Rule .0301(d) for new UST systems and the secondary containment requirements contained in Rule .0302(a) for existing UST systems.

- (1) All new UST systems and replacements to an UST system shall be provided with secondary containment as of April 1, 2001.
 - (2) All steel or metal connected piping and ancillary equipment of an UST regardless of date of installation, shall be provided with secondary containment as of January 1, 2005.
 - (3) All fiberglass or non-metal connected piping and ancillary equipment of an UST regardless of date of installation, shall be provided with secondary containment as of January 1, 2008.
 - (4) All UST systems installed on or before January 1, 1991 shall be provided with secondary containment as of January 1, 2008.
 - (5) All ~~UST systems~~ USTs installed after January 1, 1991, and prior to April 1, 2001, shall be provided with secondary containment as of January 1, 2016- 2020. Owners of certain USTs subject to this requirement, may seek a variance in accordance with Paragraphs (d) through (g) of this Rule.
- (b) All owners and operators of UST systems shall implement the following enhanced leak detection monitoring as of April 1, 2001. The enhanced leak detection monitoring must consist of the following:
- (1) Install an automatic tank gauging system (ATG) for each UST;
 - (2) Install an electronic line leak detector (ELLD) for each pressurized piping system;
 - (3) Conduct at least one 0.1 gallon per hour (gph) test per month or at least one 0.2 gph test per week on each UST system;
 - (4) Conduct a line tightness test capable of detecting a leak rate of 0.1 gph, at least once per year for each suction piping system. No release detection is required for suction piping that is designed and constructed in accordance with 40 CFR 280.41(b)(2)(i) through (iv);
 - (5) If the UST system is located within 500 feet of a public water supply well or within 100 feet of any other well supplying water for human consumption, sample the supply well at least once per year. The sample collected from the well must be analyzed for the constituents of petroleum using the following methods:
 - (A) EPA Methods 601 and 602, including methyl tertiary butyl ether, isopropyl ether and xylenes;
 - (B) EPA Method 625; and
 - (C) If a waste oil UST system is present which does not meet the requirements for secondary containment in accordance with 40 CFR 280.42(b)(1) through (4), the sample shall also be analyzed for lead and chromium

using Standard Method 3030C preparation.

- (6) The first sample collected in accordance with Subparagraph (b)(5) of this Rule shall be collected and the results received by the Division by October 1, 2000 and yearly thereafter.

(c) An UST system or UST system component installation completed on or after November 1, 2007 to upgrade or replace an UST system or UST system component described in Paragraph (a) of this Rule shall meet the performance standards of Section .0900 of this Subchapter.

(d) The Director may grant a variance from the secondary containment upgrade requirements in Subparagraph (a)(5) of this Rule for USTs located within 100 to 500 feet of a public water supply well, if the well serves only a single facility and is not a community water system. Any request for a variance shall be in writing by the owner of the UST for which the variance is sought. The Director shall grant the variance if the Director finds facts to support the following conclusions:

- (1) Such variance will not endanger human health and welfare or groundwater; and
- (2) UST systems are operated and maintained in compliance with all applicable federal laws and regulations and state laws and rules.

(e) The Director may require the variance applicant to submit such information as the Director deems necessary to make a decision to grant or deny the variance. The Director may impose such conditions on a variance as the Director deems necessary to protect human health and welfare and groundwater. The findings of fact supporting any variance under this rule shall be in writing and made part of the variance.

(f) The Director may rescind a variance that was previously granted if the Director finds that the conditions of the variance are not met or that the facts no longer support the conclusions in Subparagraphs (d)(1) and (2) of this Rule.

(g) An owner of a UST system who is aggrieved by a decision of the Director to deny or rescind a variance, may commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

**SECTION .0900 – PERFORMANCE STANDARDS FOR
UST SYSTEM OR UST SYSTEM COMPONENT
INSTALLATION OR REPLACEMENT COMPLETED ON
OR AFTER NOVEMBER 1, 2007**

15A NCAC 02N .0903 TANKS

(a) Tanks must be protected from external corrosion in accordance with 40 CFR 280.20(a)(1), (2), (3) or (5).

(b) Owners and operators of tanks installed in accordance with 40 CFR 280.20(a)(2), must comply with all applicable requirements for corrosion protection systems contained in this Subchapter.

~~(b)(c)~~ (c) The exterior surface of a tank shall bear a permanent marking, code stamp or label showing the following information:

- (1) The engineering standard used;

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- (2) The diameter in feet;
- (3) The capacity in gallons;
- (4) The materials of construction of the inner and outer walls of the tank including any external or internal coatings;
- (5) Serial number or other unique identification number designated by the tank manufacturer;
- (6) Date manufactured; and
- (7) Identity of manufacturer.

~~(e) Whenever an existing tank is removed prior to installation of a new tank, piping that does not meet the standards of this Section shall also be removed. The replacement tank shall not be connected to piping that does not meet the standards of this Section.~~

(d) Tanks that will be reused must be certified by the tank manufacturer prior to re-installation and must meet all of the requirements of this Section. Tank owners and operators must submit proof of certification to the Division along with a notice of intent (Rule .0902).

(e) Tanks shall be tested before and after installation in accordance with the following requirements:

- (1) Pre- Installation Test - Before installation, the primary containment and the interstitial space shall be tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy can be obtained from Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101-2380 at a cost of ninety-five dollars (\$95.00). The presence of soap bubbles or water droplets during a pressure test, any change in vacuum beyond the limits specified by the tank manufacturer during a vacuum test, or any change in liquid level in an interstitial space liquid reservoir beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.
- (2) Post-installation Test – The interstitial space shall be checked for a loss of pressure or vacuum, or a change in liquid level in an interstitial space liquid reservoir. Any loss of pressure or vacuum beyond the limits specified by the tank manufacturer, or a change in liquid level beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.
- (3) If a tank fails a pre-installation or post-installation test, tank installation shall be suspended until the tank is replaced or repaired in accordance with the manufacturer's specifications. Following any repair, the tank shall be re-tested in accordance with Subparagraph (e)(1) of this Rule if it failed the

pre-installation test and in accordance with Subparagraph (e)(2) of this Rule if it failed the post-installation test.

(f) The interstitial spaces of tanks that are not monitored using vacuum, pressure or hydrostatic methods must be tested for tightness before UST system start-up, between six months and the first anniversary of start-up and every three years thereafter. The interstitial space shall be tested using an interstitial tank tightness test method that is capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa) of no more than five percent. The test method must be evaluated by an independent testing laboratory, consulting firm, not-for-profit research organization or educational institution using the most recent version of the United States Environmental Protection Agency's (EPA's) "Standard Test Procedures for Evaluating Leak Detection Methods." EPA's "Standard Test Procedures for Evaluating Leak Detection Methods" is hereby incorporated by reference including subsequent amendments and additions. A copy may be obtained by visiting EPA's Office of Underground Storage Tank web site: www.epa.gov/OUST/pubs/protocol.htm at a cost of zero dollars (\$0.00). The independent testing laboratory, consulting firm, not-for-profit research organization or educational institution must certify that the test method can detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than five percent for the specific tank model being tested. If a tank fails an interstitial tank tightness test, it must be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with manufacturer's specifications. Tank owners and operators shall report all failed interstitial tank tightness tests to the Division within 24 hours. Following any repair, the tank interstitial space shall be re-tested for tightness. The most recent interstitial tightness test record must be maintained at the UST site or the tank owner's place of business and must be available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

15A NCAC 02N .0904 PIPING

(a) Piping, with the exception of flexible connectors and piping connections, shall be pre-fabricated with double-walled construction. Any flexible connectors or piping connections that do not have double-walled construction shall be installed in containment sumps that meet the requirements of 15A NCAC 02N .0905.

(b) Piping must be constructed of non-corroding materials. Metal flexible connectors and piping connections shall be installed in containment sumps that meet the requirements of 15A NCAC 02N .0905.

(c) Piping must comply with the UL 971 standard "Nonmetallic Underground Piping for Flammable Liquids;" that is in effect at the time the piping is installed. UL 971 standard "Nonmetallic Underground Piping for Flammable Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096 at a cost of four hundred forty-five dollars (\$445.00).

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(d) Piping that is buried underground must be constructed with a device or method that allows it to be located once it is installed.

(e) Piping that conveys regulated substances under pressure must also be equipped with an automatic line leak detector that meets the requirements of 40 CFR 280.44(a).

~~(f) When existing piping is replaced or extended, the entire piping system shall meet the standards of this Section. However, if only existing riser pipes, flexible connectors, fittings, flanges, valves or pumps are replaced, then only the replacement equipment must meet the standards of this Section.~~

~~(g)(f)~~ At the time of installation, the primary containment and interstitial space of the piping shall be initially tested, monitored during construction and finally tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." The presence of soap bubbles or water droplets or any loss of pressure beyond the limits specified by the piping manufacturer during testing shall be considered a failure of the integrity of the piping. If the piping fails a tightness test, it must be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's written specifications. Following any repair, the piping must be re-tested for tightness in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems."

~~(h)(g)~~ Piping that is not monitored continuously for releases using vacuum, pressure or hydrostatic methods, must be tested for tightness every three years following installation. The primary containment and interstitial space of the piping shall be tested in accordance with the manufacturers written guidelines and PEI/RP100 "Recommended Practice for Installation of Underground Liquid Storage Systems." If the piping fails a tightness test, it must be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications. Following any repair, the piping must be re-tested for tightness. The most recent periodic tightness test record must be maintained at the UST site or the tank owner or operator's place of business and must be readily available for inspection.

Authority G.S. 143-215.3(A)(15); 143B-282(A)(2)(H).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Medical Board intends to adopt the rule cited as 21 NCAC 32S .0224; amend the rules cited as 21 NCAC 32S .0201, .0212-.0213, .0215, .0217; and repeal the rules cited as 21 NCAC 32S .0211, .0214.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: May 1, 2015

Public Hearing:

Date: January 15, 2015

Time: 10:00 a.m.

Location: North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action: To clarify that the purpose of the rules related to the supervisory relationship between physician assistants and their supervising physicians is to fulfill the board's directive to regulate, supervise and discipline physician assistants and their supervising physicians, and for no other purpose.

Comments may be submitted to: Wanda Long, Rules Coordinator, NC Medical Board, P.O. Box 20007, Raleigh, NC 27619; fax (919) 326-0036; email rules@ncmedboard.org

Comment period ends: January 16, 2015

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (≥\$1,000,000)
- No fiscal note required by G.S. 150B-21.4

SUBCHAPTER 32S – PHYSICIAN ASSISTANTS

SECTION .0200 – PHYSICIAN ASSISTANT REGISTRATION

21 NCAC 32S .0201 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Board" means the North Carolina Medical Board.
- (2) "Examination" means the Physician Assistant National Certifying Examination.
- (3) "Family member" means a spouse, parent, grandparent, child, grandchild, sibling, aunt, uncle or first cousin, or persons to the same degree by marriage.

Transcript
Public Hearing
Department of Environment and Natural Resources
15NCAC 02N .0304 and .0903-.0904
Raleigh, NC
December 4, 2014

Donnie Redmond, Hearing Officer:

Good afternoon ladies and gentlemen. It is now 4:00pm on December 4th, 2014. My name is Donnie Redmond. I am the Ambient Monitoring Section Chief for the Division of Air Quality. I have been appointed by the Environmental Management Commission to be the hearing officer for tonight's hearing. My role as hearing officer is to receive all relevant comment on these proceedings and report my findings and recommendation to the full commission.

Some of the staff from the Division of Waste Management is here to assist. I ask Ms. Ruth Strauss to please introduce the staff present.

This evening we are conducting a public hearing to take comments on proposed amendments to three underground storage tank system rules. This hearing will be held according to the North Carolina Administrative Procedures Act. The public notice for this hearing has been advertised in the North Carolina Register and posted to the Division's website. A fiscal note estimating the economic impacts of the rule change has been prepared by DWM and approved by the Office of State Budget and Management. I will enter the public notice, proposed amendments, and fiscal note into the hearing record without reading them at this time.

I will now open the hearing and, following a brief description of the proposed amendments, take relevant comments on these three rules. Any person desiring to comment is requested to submit a written statement for inclusion in the hearing record. Once called to speak, please come to the podium and state your name clearly, identifying the rule or rules you are commenting on, and whom you represent.

The rule changes being considered today impact the underground storage tank secondary containment rules found in 15A NCAC 02N.

Session Law 2011-394 [Sections 11.4, 11.6(a), 11.6(b) and 11.7(a)] directed the EMC to adopt several changes to rules governing UST systems. SL 2011-394 stated that the rule changes must be substantively identical to the provisions of the Act. SL 2013-413, Section 36 clarified the universe of USTs subject to the rule change directed by SL 2011-394, Section 11.6(a).

The three rules affected by the sessions laws are 15A NCAC 02N .0304, .0903, and .0904.

The rule changes will, in essence:

- Extend the deadline to upgrade secondary containment for certain systems to January 1, 2020
- Establish a variance process for certain tanks

- Allow cathodically protected double-walled steel tanks to be installed
- Eliminate the requirement that all piping be replaced when a tank is replaced
- Eliminate the requirement that all piping be replaced when a section of piping is replaced or extended

I will now call speakers to present their comments.

Doug Howey, North Carolina Petroleum and Convenience Marketers:

Thank you for the opportunity to comment on the proposed changes to the UST Secondary Containment rules. The North Carolina Petroleum and Convenience Marketers (NCPCM) advocated for the legislation in 2011 that led to the development of the proposed changes. The changes will give petroleum underground storage tank owners more options to consider when implementing upgrades to their UST systems and could reduce the cost of those upgrades. Therefore, NCPCM supports the changes as proposed.

Donnie Redmond, Hearing Officer:

Is there anyone else who would like to comment? If there are no more comments, then the hearing is closed. The hearing record will remain open until January 2, 2015 for additional written comments.

1 15A NCAC 02N .0304 is proposed for amendment as follows:

2

3 **15A NCAC 02N .0304 IMPLEMENTATION SCHEDULE FOR PERFORMANCE STANDARDS FOR NEW**
 4 **UST SYSTEMS AND UPGRADING REQUIREMENTS FOR EXISTING UST SYSTEMS LOCATED IN**
 5 **AREAS DEFINED IN RULE .0301(D)**

6 (a) The following implementation schedule shall apply only to owners and operators of UST systems located within
 7 areas defined in Rule .0301(d) of this Section. This implementation schedule shall be used by the Department for tank
 8 owners and operators to comply with the secondary containment requirements contained in Rule .0301(d) for new UST
 9 systems and the secondary containment requirements contained in Rule .0302(a) for existing UST systems.

- 10 (1) All new UST systems and replacements to an UST system shall be provided with secondary
 11 containment as of April 1, 2001.
- 12 (2) All steel or metal connected piping and ancillary equipment of an UST regardless of date of
 13 installation, shall be provided with secondary containment as of January 1, 2005.
- 14 (3) All fiberglass or non-metal connected piping and ancillary equipment of an UST regardless of date of
 15 installation, shall be provided with secondary containment as of January 1, 2008.
- 16 (4) All UST systems installed on or before January 1, 1991 shall be provided with secondary containment
 17 as of January 1, 2008.
- 18 (5) All ~~UST systems~~ USTs installed after January 1, ~~1991~~ 1991, and prior to April 1, 2001, shall be
 19 provided with secondary containment as of January 1, ~~2016~~ 2020. Owners of certain USTs subject to
 20 this requirement, may seek a variance in accordance with 15A NCAC 02N .0304 (d) through (g).

21 (b) All owners and operators of UST systems shall implement the following enhanced leak detection monitoring as of
 22 April 1, 2001. The enhanced leak detection monitoring must consist of the following:

- 23 (1) Install an automatic tank gauging system (ATG) for each UST;
- 24 (2) Install an electronic line leak detector (ELLD) for each pressurized piping system;
- 25 (3) Conduct at least one 0.1 gallon per hour (gph) test per month or at least one 0.2 gph test per week on
 26 each UST system;
- 27 (4) Conduct a line tightness test capable of detecting a leak rate of 0.1 gph, at least once per year for each
 28 suction piping system. No release detection is required for suction piping that is designed and
 29 constructed in accordance with 40 CFR 280.41(b)(2)(i) through (iv);
- 30 (5) If the UST system is located within 500 feet of a public water supply well or within 100 feet of any
 31 other well supplying water for human consumption, sample the supply well at least once per year. The
 32 sample collected from the well must be analyzed for the constituents of petroleum using the following
 33 methods:
- 34 (A) EPA Methods 601 and 602, including methyl tertiary butyl ether, isopropyl ether and
 35 xylenes;
- 36 (B) EPA Method 625; and

1 (C) If a waste oil UST system is present which does not meet the requirements for secondary
 2 containment in accordance with 40 CFR 280.42(b)(1) through (4), the sample shall also be
 3 analyzed for lead and chromium using Standard Method 3030C preparation.

4 (6) The first sample collected in accordance with Subparagraph (b)(5) of this Rule shall be collected and
 5 the results received by the Division by October 1, 2000 and yearly thereafter.

6 (c) An UST system or UST system component installation completed on or after November 1, 2007 to upgrade or
 7 replace an UST system or UST system component described in Paragraph (a) of this Rule shall meet the performance
 8 standards of Section .0900 of this Subchapter.

9 (d) The Director may grant a variance from the secondary containment upgrade requirements in 15A NCAC 02N
 10 .0304(a)(5) for USTs located within 100 to 500 feet of a public water supply well, if the well serves only a single facility
 11 and is not a community water system. Any request for a variance shall be in writing by the owner of the UST for which
 12 the variance is sought. The Director shall grant the variance if the Director finds facts to support the following
 13 conclusions:

14 (1) Such variance will not endanger human health and welfare or groundwater; and

15 (2) UST systems are operated and maintained in compliance with all applicable federal laws and
 16 regulations and state laws and rules.

17 (e) The Director may require the variance applicant to submit such information as the Director deems necessary to make
 18 a decision to grant or deny the variance. The Director may impose such conditions on a variance as the Director deems
 19 necessary to protect human health and welfare and groundwater. The findings of fact supporting any variance under this
 20 rule shall be in writing and made part of the variance.

21 (f) The Director may rescind a variance that was previously granted if the Director finds that the conditions of the
 22 variance are not met or that the facts no longer support the conclusions in 15A NCAC 02N .0304(d)(1) and (2).

23 (g) An owner of a UST system who is aggrieved by a decision of the Director to deny or rescind a variance, may
 24 commence a contested case by filing a petition under G.S. 150B-23 within 60 days after receipt of the decision.

25
 26 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*

27 *Temporary Adoption Eff. May 1, 2000;*

28 *Eff. April 1, 2001;*

29 *Amended Eff. November 1, 2007.*

30

1 15A NCAC 02N .0903 is proposed for amendment as follows:

2

3 **15A NCAC 02N .0903 TANKS**

4 (a) Tanks must be protected from external corrosion in accordance with 40 CFR 280.20(a)(1), (2), (3) or (5).

5 (b) Owners and operators of tanks installed in accordance with 40 CFR 280.20(a)(2), must comply with all applicable
6 requirements for corrosion protection systems contained in this subchapter

7 ~~(b)~~(c) The exterior surface of a tank shall bear a permanent marking, code stamp or label showing the following
8 information:

9 (1) The engineering standard used;

10 (2) The diameter in feet;

11 (3) The capacity in gallons;

12 (4) The materials of construction of the inner and outer walls of the tank including any external or internal
13 coatings;

14 (5) Serial number or other unique identification number designated by the tank manufacturer;

15 (6) Date manufactured; and

16 (7) Identity of manufacturer.

17 ~~(c) Whenever an existing tank is removed prior to installation of a new tank, piping that does not meet the standards of~~
18 ~~this Section shall also be removed. The replacement tank shall not be connected to piping that does not meet the~~
19 ~~standards of this Section.~~

20 (d) Tanks that will be reused must be certified by the tank manufacturer prior to re-installation and must meet all of the
21 requirements of this Section. Tank owners and operators must submit proof of certification to the Division along with a
22 notice of intent (Rule .0902).

23 (e) Tanks shall be tested before and after installation in accordance with the following requirements:

24 (1) Pre- Installation Test - Before installation, the primary containment and the interstitial space shall be
25 tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended
26 Practice for Installation of Underground Liquid Storage Systems." PEI/RP100, "Recommended
27 Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference
28 including subsequent amendments and editions. A copy can be obtained from Petroleum Equipment
29 Institute, P.O. Box 2380, Tulsa, Oklahoma 74101-2380 at a cost of ninety-five dollars (\$95.00). The
30 presence of soap bubbles or water droplets during a pressure test, any change in vacuum beyond the
31 limits specified by the tank manufacturer during a vacuum test, or any change in liquid level in an
32 interstitial space liquid reservoir beyond the limits specified by the tank manufacturer, shall be
33 considered a failure of the integrity of the tank.

34 (2) Post-installation Test – The interstitial space shall be checked for a loss of pressure or vacuum, or a
35 change in liquid level in an interstitial space liquid reservoir. Any loss of pressure or vacuum beyond
36 the limits specified by the tank manufacturer, or a change in liquid level beyond the limits specified by
37 the tank manufacturer, shall be considered a failure of the integrity of the tank.

1 (3) If a tank fails a pre-installation or post-installation test, tank installation shall be suspended until the
2 tank is replaced or repaired in accordance with the manufacturer's specifications. Following any
3 repair, the tank shall be re-tested in accordance with Subparagraph (e)(1) of this Rule if it failed the
4 pre-installation test and in accordance with Subparagraph (e)(2) of this Rule if it failed the post-
5 installation test.

6 (f) The interstitial spaces of tanks that are not monitored using vacuum, pressure or hydrostatic methods must be tested
7 for tightness before UST system start-up, between six months and the first anniversary of start-up and every three years
8 thereafter. The interstitial space shall be tested using an interstitial tank tightness test method that is capable of detecting
9 a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm
10 (Pfa) of no more than five percent. The test method must be evaluated by an independent testing laboratory, consulting
11 firm, not-for-profit research organization or educational institution using the most recent version of the United States
12 Environmental Protection Agency's (EPA's) "Standard Test Procedures for Evaluating Leak Detection Methods." EPA's
13 "Standard Test Procedures for Evaluating Leak Detection Methods" is hereby incorporated by reference including
14 subsequent amendments and additions. A copy may be obtained by visiting EPA's Office of Underground Storage Tank
15 web site: www.epa.gov/OUST/pubs/protocol.htm at a cost of zero dollars (\$0.00). The independent testing laboratory,
16 consulting firm, not-for-profit research organization or educational institution must certify that the test method can detect
17 a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than five percent for the specific
18 tank model being tested. If a tank fails an interstitial tank tightness test, it must be replaced or repaired by the
19 manufacturer or the manufacturer's authorized representative in accordance with manufacturer's specifications. Tank
20 owners and operators shall report all failed interstitial tank tightness tests to the Division within 24 hours. Following any
21 repair, the tank interstitial space shall be re-tested for tightness. The most recent interstitial tightness test record must be
22 maintained at the UST site or the tank owner's place of business and must be available for inspection.

23
24 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*
25 *Eff. November 1, 2007;*
26 *Amended Eff. February 1, 2010.*

1 15A NCAC 02N .0904 is proposed for amendment as follows:

2

3 **15A NCAC 02N .0904 PIPING**

4 (a) Piping, with the exception of flexible connectors and piping connections, shall be pre-fabricated with double-walled
5 construction. Any flexible connectors or piping connections that do not have double-walled construction shall be installed
6 in containment sumps that meet the requirements of 15A NCAC 02N .0905.

7 (b) Piping must be constructed of non-corroding materials. Metal flexible connectors and piping connections shall be
8 installed in containment sumps that meet the requirements of 15A NCAC 02N .0905.

9 (c) Piping must comply with the UL 971 standard "Nonmetallic Underground Piping for Flammable Liquids;" that is in
10 effect at the time the piping is installed. UL 971 standard "Nonmetallic Underground Piping for Flammable Liquids" is
11 hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from
12 Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096 at a cost of four hundred forty-five
13 dollars (\$445.00).

14 (d) Piping that is buried underground must be constructed with a device or method that allows it to be located once it is
15 installed.

16 (e) Piping that conveys regulated substances under pressure must also be equipped with an automatic line leak detector
17 that meets the requirements of 40 CFR 280.44(a).

18 ~~(f) When existing piping is replaced or extended, the entire piping system shall meet the standards of this Section.
19 However, if only existing riser pipes, flexible connectors, fittings, flanges, valves or pumps are replaced, then only the
20 replacement equipment must meet the standards of this Section.~~

21 ~~(g)~~ (f) At the time of installation, the primary containment and interstitial space of the piping shall be initially tested,
22 monitored during construction and finally tested in accordance with the manufacturers written guidelines and PEI/RP100,
23 "Recommended Practice for Installation of Underground Liquid Storage Systems." The presence of soap bubbles or
24 water droplets or any loss of pressure beyond the limits specified by the piping manufacturer during testing shall be
25 considered a failure of the integrity of the piping. If the piping fails a tightness test, it must be replaced or repaired by the
26 manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's written specifications.
27 Following any repair, the piping must be re-tested for tightness in accordance with the manufacturers written guidelines
28 and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems."

29 ~~(h)~~ (g) Piping that is not monitored continuously for releases using vacuum, pressure or hydrostatic methods, must be
30 tested for tightness every three years following installation. The primary containment and interstitial space of the piping
31 shall be tested in accordance with the manufacturers written guidelines and PEI/RP100 "Recommended Practice for
32 Installation of Underground Liquid Storage Systems." If the piping fails a tightness test, it must be replaced or repaired
33 by the manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications.
34 Following any repair, the piping must be re-tested for tightness. The most recent periodic tightness test record must be
35 maintained at the UST site or the tank owner or operator's place of business and must be readily available for inspection.

36

37 *History Note: Authority G.S. 143-215.3(A)(15); 143B-282(A)(2)(H);*

1
2

Eff. November 1, 2007.

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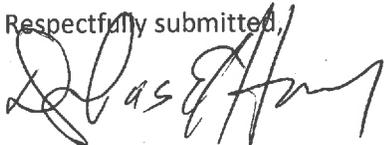
Ruth Strauss
NCDENR/UST Section
1637 Mail Service Center
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Re: Proposed Changes to UST Secondary Containment Rules

Dear Ms. Strauss

Thank you for the opportunity to comment on the proposed changes to the UST Secondary Containment rules. The North Carolina Petroleum and Convenience Marketers (NCPCM) advocated for the legislation in 2011 that led to the development of the proposed changes. The changes will give petroleum underground storage tank owners more options to consider when implementing upgrades to their UST systems and could reduce the cost of those upgrades. Therefore, NCPCM supports the changes as proposed.

Respectfully submitted,



Douglas Howey
Government & Regulatory Affairs Director
NC Petroleum & Convenience Marketers