

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS35432-RIz-29A* (04/29)

Short Title: UST Operator Training Program.

(Public)

Sponsors: Senators Davis, Atwater and Kinnaird.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS (USTS) IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94KK through G.S. 143-215.94MM are reserved for future codification purposes.

SECTION 2. Article 21A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 2D. Training of Underground Storage Tank Operators.

"§ 143-215.94NN. Applicability.

The requirements of this Part apply to underground storage tank systems regulated under Subtitle I of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 United States Code § 6901, et seq. as amended, except those excluded by regulation at 40 Code of Federal Regulations 280.10(b) and those deferred by regulation at 40 Code of Federal Regulations 280.10(c).

"§ 143-215.94OO. Definitions.

Unless a different meaning is required by the context or unless a different meaning is set out in this section, the definitions in G.S. 143-212, 143-215.94A and 143-215.94L apply in this Part.

- (1) "Primary operator" means a person having primary responsibility for the daily on-site operation and maintenance of an underground storage tank system.
- (2) "Emergency response operator" means an on-site employee whose responsibilities include addressing emergencies presented by a spill or release, or responding to alarms or releases from an underground storage tank system. For an unmanned facility, "emergency response operator" means the person responsible for responding to emergencies or alarms or releases at the facility.
- (3) "Underground storage tank" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including



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1 the volume of the underground pipes connected thereto) is ten percent (10%)
2 or more beneath the surface of the ground.

3 (4) "Underground storage tank system" or "tank system" means an underground
4 storage tank, connected underground piping, underground ancillary
5 equipment, dispenser, and containment system, if any.

6 **"§ 143-215.94PP. Designation of operators to be trained.**

7 (a) The owner of an underground storage tank system shall designate the primary
8 operator of the underground storage tank system. The person designated shall be the
9 underground storage tank operator, as defined in 40 Code of Federal Regulations Part 280, or
10 the employee of the underground storage tank operator. There shall be a designated primary
11 operator of the underground storage tank system at all times, until the underground storage tank
12 system has been permanently closed. If the owner fails to designate a primary operator, the
13 owner shall be deemed to be the primary operator of the underground storage tank system for
14 purposes of this Part.

15 (b) The primary operator shall designate one or more emergency response operators.
16 There shall be at least one emergency response operator at the site and at all times during which
17 a regulated substance is being withdrawn from, or is capable of being withdrawn from, the
18 underground storage tank system. For an unmanned facility, the primary operator shall
19 designate the person who is on-call to respond to emergencies or alarms at the facility. The
20 unmanned facility shall have an automated notification system in place that will alert the
21 designated emergency response operator of an emergency or activated alarm at the facility. If
22 the primary operator fails to designate one or more emergency response operators, the primary
23 operator shall be deemed to be the emergency response operator of the underground storage
24 tank system.

25 (c) A person may act as both the primary operator and the emergency response operator
26 of the underground storage tank system.

27 **"§ 143-215.94QQ. Training requirements for primary operators.**

28 (a) The Department shall develop and implement a training program for primary
29 operators. The training program shall provide instruction on the proper operation and
30 maintenance of the underground storage tank system at the facility, principles of construction
31 and safety, and all regulatory requirements associated with the underground storage tank
32 system. The training may consist of a combination of on-site evaluation and testing, as well as
33 in-class or online instruction and testing. At a minimum, the training shall require the primary
34 operator to demonstrate all of the following:

35 (1) Knowledge of the requirements for spill prevention, overfill prevention,
36 release detection, corrosion protection, emergency response, and product
37 compatibility.

38 (2) Site-specific knowledge of the equipment used at the facility and the
39 components of the underground storage tank system, and the methods of
40 release detection and release prevention applied to the underground storage
41 tank components.

42 (3) Knowledge of the requirements for demonstrating financial responsibility.

43 (4) Understanding of notification requirements associated with the underground
44 storage tank system, and the requirements for reporting releases and
45 suspected releases.

46 (5) Understanding of the requirements for the temporary and permanent closure
47 of underground storage tank systems.

48 (6) Knowledge of the emergency response operator training requirements, and
49 the actions to be taken in response to emergencies and alarms.

50 (b) A primary operator shall be retrained if an inspection at the facility reveals that the
51 underground storage tank system is not in substantial compliance with the requirements for:

1 release detection, release prevention, financial responsibility, emergency response, suspected
2 release reporting and investigation, the proximity of the underground storage tank system to
3 water supply wells and surface water, and permitting. A primary operator who is required to be
4 retrained shall complete the retraining within a reasonable time as determined by the
5 Department. The retraining shall include training in the areas for which the underground
6 storage tank system was not in compliance.

7 (c) The primary operator shall maintain documentation to show that the operator has
8 satisfactorily completed all training required by this section.

9 **"§ 143-215.94RR. Training requirements for emergency response operators.**

10 (a) The Department shall develop a training program for emergency response operators.
11 At a minimum, the training shall require the primary operator to demonstrate all of the
12 following:

- 13 (1) General understanding of the underground storage tank system at the
14 facility, and knowledge of the location and proper operation of the safety
15 and emergency response equipment.
- 16 (2) Understanding of the actions to be taken in response to an emergency,
17 including situations posing an immediate danger or threat to the public or to
18 the environment and requiring immediate action.
- 19 (3) Understanding of leak detection alarms and preparations needed to respond
20 to alarms before a release has occurred.
- 21 (4) Recognition of unusual operating conditions, equipment failures, or
22 environmental conditions that may indicate a release, and knowledge of the
23 steps to take in response to a suspected release.
- 24 (5) Knowledge of immediate steps to take in response to a confirmed release to
25 stop further release and to contain spills before they reach the environment.

26 (b) The primary operator is responsible for implementing the training program
27 developed by the Department for emergency response operators. The primary operator shall
28 train each emergency response operator of the underground storage tank system at the facility.
29 Prior to training an emergency response operator, the primary operator shall have satisfactorily
30 completed all training required by this section. The primary operator shall maintain
31 documentation of training provided to emergency response operators.

32 **"§ 143-215.94SS. Enforcement.**

33 This Part may be enforced as provided in G.S. 143-215.94W, 143-215.94X, and
34 G.S. 143-215.94Y.

35 **"§ 143-215.94TT. Effect on other laws.**

36 The requirements of this Part are in addition to, and not in lieu of, any other requirements
37 applicable to underground storage tank owners or operators, as defined in 40 Code of Federal
38 Regulations Part 280, under law."

39 **SECTION 3.** Each designated primary operator and emergency response operator
40 shall complete the training required by this section no later than August 8, 2012. For primary
41 operators designated after August 8, 2012, the owner shall notify the Department of the
42 designation, and the primary operator shall be trained within 30 days after assuming operation
43 and maintenance responsibilities for the underground storage tank system. After August 8,
44 2012, no person may assume the responsibilities of emergency response operator without
45 having first satisfactorily completed emergency response operator training, and the primary
46 operator shall ensure that no person assumes the responsibilities of emergency response
47 operator, unless the person has satisfactorily completed emergency response operator training.

48 **SECTION 4.** This act is effective when it becomes law.