

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

4

SENATE BILL 1337*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/1/10
House Committee Substitute Favorable 6/10/10
House Committee Substitute #2 Favorable 6/24/10

Short Title: UST Operator Training Program. (Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS 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 U.S.C. § 6901, et seq., as amended, except those excluded by regulation at 40 Code of Federal Regulations 280.10(b) (July 1, 2009 Edition) and those deferred by regulation at 40 Code of Federal Regulations 280.10(c) (July 1, 2009 Edition).

"§ 143-215.94OO. Definitions.

Unless a different meaning is required by the context, the definitions in G.S. 143-212 and G.S. 143-215.94A 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 person 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: (i) 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 the volume of the underground pipes connected thereto) is ten percent (10%)



1 or more beneath the surface of the ground; and (ii) to which this Part applies
2 pursuant to G.S. 143-215.94NN.

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 (July
10 1, 2009 Edition), or an employee or agent of the underground storage tank operator. There shall
11 be a designated primary operator of the underground storage tank system at all times, until the
12 underground storage tank system has been permanently closed. If the owner fails to designate a
13 primary operator, the owner shall be deemed to be the primary operator of the underground
14 storage tank system for purposes of this Part.

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18 substance is being withdrawn from, or is capable of being withdrawn from, the underground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

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

28 **"§ 143-215.94QQ. Training requirements for primary operators.**

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

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

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

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

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

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

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

1 (b) A primary operator shall be retrained if an inspection at the facility reveals that the
2 underground storage tank system is not in substantial compliance with the requirements for:
3 release detection, release prevention, financial responsibility, emergency response, suspected
4 release reporting and investigation, the proximity of the underground storage tank system to
5 water supply wells and surface water, and permitting. A primary operator who is required to be
6 retrained shall complete the retraining within a reasonable time as determined by the
7 Department. The retraining shall include training in the areas for which the underground
8 storage tank system was not in compliance.

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

11 **"§ 143-215.94RR. Training requirements for emergency response operators.**

12 (a) The Department shall develop a training program for emergency response operators.
13 In order to satisfactorily complete the training, an emergency response operator shall, at a
14 minimum, demonstrate all of the following:

15 (1) General understanding of the underground storage tank system at the
16 facility, and knowledge of the location and proper operation of the safety
17 and emergency response equipment.

18 (2) Understanding of the actions to be taken in response to an emergency,
19 including situations posing an immediate danger or threat to the public or to
20 the environment and requiring immediate action.

21 (3) Understanding of leak detection alarms and preparations needed to respond
22 to alarms before a release has occurred.

23 (4) Recognition of unusual operating conditions, equipment failures, or
24 environmental conditions that may indicate a release, and knowledge of the
25 steps to take in response to a suspected release.

26 (5) Knowledge of immediate steps to take in response to a confirmed release to
27 stop further release and to contain spills before they reach the environment.

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

34 **"§ 143-215.94SS. Tank systems for emergency power generators.**

35 This section applies only to a facility that utilizes an underground storage tank system to
36 store fuel solely for use by emergency power generators. A primary operator that has
37 satisfactorily completed the training required by G.S. 143-215.94QQ at a facility shall be
38 deemed trained as the primary operator at another facility that has identical spill prevention,
39 overflow prevention, release detection, corrosion protection, emergency response, and product
40 compatibility requirements as the facility for which the primary operator has satisfactorily
41 completed training.

42 **"§ 143-215.94TT. Enforcement.**

43 This Part may be enforced as provided in G.S. 143-215.94W, 143-215.94X, and
44 143-215.94Y.

45 **"§ 143-215.94UU. Effect on other laws.**

46 The requirements of this Part are in addition to, and not in lieu of, any other requirements
47 applicable to underground storage tank owners or operators, as defined in 40 Code of Federal
48 Regulations Part 280 (July 1, 2009 Edition), under law."

49 **SECTION 3.** Notwithstanding G.S. 143-215.94PP, as enacted by Section 2 of this
50 act, each owner of an underground storage tank system shall designate a primary operator or
51 emergency response operator no later than August 1, 2010, or the owner shall be deemed to be

1 the primary operator and emergency response operator of the underground storage tank system.
2 Each designated primary operator and emergency response operator shall complete the training
3 required by this section no later than August 8, 2012. For primary operators designated after
4 August 8, 2012, the owner shall notify the Department of the designation, and the primary
5 operator shall be trained within 30 days after assuming operation and maintenance
6 responsibilities for the underground storage tank system. After August 8, 2012, no person may
7 assume the responsibilities of emergency response operator without having first satisfactorily
8 completed emergency response operator training, and the primary operator shall ensure that no
9 person assumes the responsibilities of emergency response operator unless the person has
10 satisfactorily completed emergency response operator training.

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