

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

D

SENATE BILL 1337\*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/1/10  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1337-PCS55619-SY-14

Short Title: UST Operator Training Program.

(Public)

Sponsors:

Referred to:

May 20, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE  
3 TANKS IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL  
4 ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL  
5 REVIEW COMMISSION.

6 The General Assembly of North Carolina enacts:

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

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

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

12 **"§ 143-215.94NN. Applicability.**

13 The requirements of this Part apply to underground storage tank systems regulated under  
14 Subtitle I of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat.  
15 2795, 42 U.S.C. § 6901, et seq., as amended, except those excluded by regulation at 40 Code of  
16 Federal Regulations 280.10(b) (July 1, 2009 Edition) and those deferred by regulation at 40  
17 Code of Federal Regulations 280.10(c) (July 1, 2009 Edition).

18 **"§ 143-215.94OO. Definitions.**

19 Unless a different meaning is required by the context, the definitions in G.S. 143-212 and  
20 G.S. 143-215.94A apply in this Part.

21 (1) "Primary operator" means a person having primary responsibility for the  
22 daily on-site operation and maintenance of an underground storage tank  
23 system.

24 (2) "Emergency response operator" means an on-site employee whose  
25 responsibilities include addressing emergencies presented by a spill or  
26 release, or responding to alarms or releases from an underground storage  
27 tank system. For an unmanned facility, "emergency response operator"  
28 means the person responsible for responding to emergencies or alarms or  
29 releases at the facility.

30 (3) "Underground storage tank" means: (i) any one or combination of tanks  
31 (including underground pipes connected thereto) that is used to contain an  
32 accumulation of regulated substances, and the volume of which (including  
33 the volume of the underground pipes connected thereto) is ten percent (10%)



\* S 1 3 3 7 - P C S 5 5 6 1 9 - S Y - 1 4 \*

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 of the underground storage tank operator. There shall be a  
11 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 There shall be at least one emergency response operator at the site at all times during which a  
17 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 a 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. In order to satisfactorily complete the training, a  
34 primary operator shall, at a minimum, 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 associated with the underground  
41 storage 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, including 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 In order to satisfactorily complete the training, an emergency response operator shall, at a  
12 minimum, demonstrate all of the 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  
34 143-215.94Y.

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 (July 1, 2009 Edition), under law."

39 **SECTION 3.** Notwithstanding G.S. 143-215.94PP, as enacted by Section 2 of this  
40 act, each owner of an underground storage tank system shall designate a primary operator or  
41 emergency response operator no later than August 1, 2010, or the owner shall be deemed to be  
42 the primary operator and emergency response operator of the underground storage tank system.  
43 Each designated primary operator and emergency response operator shall complete the training  
44 required by this section no later than August 8, 2012. For primary operators designated after  
45 August 8, 2012, the owner shall notify the Department of the designation, and the primary  
46 operator shall be trained within 30 days after assuming operation and maintenance  
47 responsibilities for the underground storage tank system. After August 8, 2012, no person may  
48 assume the responsibilities of emergency response operator without having first satisfactorily  
49 completed emergency response operator training, and the primary operator shall ensure that no  
50 person assumes the responsibilities of emergency response operator unless the person has  
51 satisfactorily completed emergency response operator training.

1

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