



North Carolina Department of Environment and Natural Resources
Division of Waste Management

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**Division of Waste Management
UST Section
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To: UST Section Staff, Environmental Consultants and Responsible Parties

From: Robert K. Davies, Corrective Action Branch Head

Re: Intermediate Risk Site Pilot Program – SL 2008-195

In 2008, the General Assembly passed Session Law 2008-195 which directed NCDENR to establish a pilot program to evaluate the use of site-specific cleanup standards for Intermediate risk petroleum UST sites. Session Law 2008-195 reads in part:

SL 2008-195

SECTION 7.(a) The definitions set out in G.S. 143-215.94A apply to this section. As used in this section, "Department" means the Department of Environment and Natural Resources and, with respect to any power or duty assigned to the Environmental Management Commission under Article 21A of Chapter 143 of the General Statutes, includes the Environmental Management Commission. As used in this section, "site-specific cleanup standards" means standards developed using the methodology described in the Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites adopted by the American Society for Testing and Materials (ASTM) as E1739-95(2002).

SECTION 7.(b) The Department shall establish a pilot program to evaluate the use of site-specific cleanup standards for the cleanup of discharges or releases of petroleum from underground storage tanks as an alternative to the use of the risk-based assessment and corrective action standards set out in 15A NCAC 2L.0400. The purpose of the pilot program is to determine the extent to which the use of site-specific standards would provide effective protection of public health, safety, and the environment in a cost-effective manner and at a lower overall cost as compared with the use of the risk-based standards set out in 15A NCAC 2L.0400. The pilot program shall apply only to discharges or releases that are classified as intermediate risk under 15A NCAC 2L.0400(d). The pilot program shall evaluate the use of site-specific standards in the cleanup of contamination that results from a discharge or release of petroleum from: (i) an underground storage tank; and (ii) an underground

storage tank that is commingled with petroleum contamination from a source of contamination other than an underground storage tank, as provided in G.S. 143-215.94V(h).

SECTION 7.(c) Participation in the pilot program shall be at the election of the owner, operator, or landowner. To participate in the pilot program, an owner, operator, or landowner shall perform a site-specific risk assessment and submit the assessment to the Department. If the Department determines that the use of site-specific cleanup standards will provide effective protection of public health, safety, and the environment, the Department shall set site-specific soil and groundwater cleanup standards for the discharge or release. These site-specific standards shall apply in lieu of the risk-based assessment and corrective action standards set out in 15A NCAC 2L.0400.

SECTION 7.(d) If soil and groundwater contamination from a discharge or release is no greater than the site-specific soil and groundwater cleanup standards set by the Department, the Department shall notify an owner, operator, or landowner that no cleanup, further cleanup, or further action will be required. If soil and groundwater contamination from a discharge or release is greater than the site-specific soil and groundwater cleanup standards set by the Department, the owner, operator, or landowner shall submit a corrective action plan to achieve the standards. The Department may require the owner, operator, or landowner to evaluate the impact of the site-specific cleanup standards on public health, safety, and the environment through use of an appropriate model. The Department shall not set site-specific soil and groundwater cleanup standards for the discharge or release that allow for contamination in excess of unrestricted use standards, as defined in G.S. 143B-279.9, on any real property that is not subject to land-use restrictions under G.S. 143B-279.9 and recordation under G.S. 143B-279.11.

Session Law 2008-195 basically says that the UST Section needs to allow RPs to perform a site specific risk assessment on their intermediate risk site if they so choose. The assessment needs to follow the Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites adopted by the American Society for Testing and Materials (ASTM) as E1739-95(2002). As stated in Section 7.(c), participation in the pilot program shall be at the election of the owner, operator, or landowner, so the UST Section cannot direct the RP to perform a site specific risk assessment. If an RP wishes to participate in the pilot project, they need to submit two copies of the site specific risk assessment, one to the UST Section Regional Office and one to the UST Section Central Office. The evaluation of the site specific risk assessment report will be done by the Central Office staff in conjunction with the Regional Office staff. Additionally, the Central Office will track the requested site specific risk assessment reports. The incidents included in this pilot program will be subject to the same funding restrictions as all other UST incidents, meaning that at this point in time, based on current funding levels the Intermediate risk sites participating in the pilot program would be performing non-directed work.