

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



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UNDERGROUND STORAGE TANK SECTION

MEMORANDUM

Date: 13 September 2006
To: UST Section Staff, Environmental Service Providers and Other Interested Parties
From: Grover Nicholson, Chief, UST Section *G. Nicholson*
Subject: UST Determination Policy

Lately, the UST Section has received claims against the Noncommercial Trust Fund for cleanups of releases from home heating oil tanks that have been determined not to be USTs. The tanks in question were located in crawl spaces and cellars beneath houses but were not underground. These instances are not common, but they cause hardship to both the tank owner and the environmental service provider because the Noncommercial Trust Fund is not allowed to reimburse costs for cleaning up releases from non-USTs. The purposes of this policy are (1) to remind environmental service providers, tank owners, and others that the UST Section cannot approve work nor can the Noncommercial Trust Fund reimburse the costs of activities at non-UST releases and (2) to provide a method to determine if a questionable tank is a UST prior to conducting any activities.

An underground storage tank (UST) is defined in NCGS §143-215.94A(2) & (7) as, "...any one or combination of tanks (including underground pipes connected thereto) used to contain an accumulation of petroleum products, the volume of which (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground." Further, NC General Statute §143-215.94A(2)(j)& (7)(h) states that USTs do not include "storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor."

Effective upon the date of this policy, if any portion of a home heating oil tank (except the vent and fill lines), particularly those tanks located in crawl spaces or cellars under houses, is above the surface of the immediately surrounding ground under normal operating conditions, a UST Section incident manager or other UST Section staff member must determine if the tank is a UST prior to any activities being conducted under UST program laws, rules, and regulations, including Noncommercial Trust Fund laws, rules, and regulations. This determination should include a visual inspection of the tank, and may include scaled photographs documenting the tank's position and a determination of the tank's dimensions. The incident manager should document the determination in the RUST database and on the inspection checklist. Removal of a partially exposed tank prior to determination by the UST Section that the tank is a UST may result in denial of eligibility for reimbursement from the State Trust Funds.

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