

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #7

Do not mark in this box
Filing Date

FILED

JUN 23 1 53 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

Division of Environmental Protection
Water Resources/Solid Waste Management

AGENCY: _____ TITLE NUMBER: 47

CITE AUTHORITY: West Virginia Code 22-17-6

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 36

TITLE OF RULE BEING AMENDED: Underground Storage Tanks

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

6-40

Use additional sheets if necessary

Regent Wall
Signature



BUREAU OF ENVIRONMENT
10 McJunkin Road
Nitro, WV 25143-2506

GASTON CAPERTON
GOVERNOR

LAIDLEY ELI MCCOY, PH.D.
COMMISSIONER

June 22, 1995

Ms. Judy Cooper
Director, Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
Charleston, West Virginia 25305

RE: 47 CSR 36 - Underground Storage Tanks

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule as an Emergency Rule with the Secretary of State's Office.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,

A handwritten signature in cursive script that reads "Laidley Eli McCoy".

Laidley Eli McCoy, Ph.D.
Director

LEM;RTH:cc

Attachment

STATEMENT OF CIRCUMSTANCES

The current certification regulations do not specifically address tank and piping tightness testers therefore there is no alternative for them to be allowed to perform the necessary minor repairs and to reconnect existing piping and/or equipment during testing other than to qualify for the more stringent Class A Installer certification class. When these testers pass the examination for Class A certification they are also being certified by the Division of Environmental Protection to install new underground storage tank systems. The majority of these testers have no experience in underground storage tank installation.

Certification by the Division of Environmental Protection of these inexperienced persons as underground storage tank installers is creating a serious threat to human health and safety and the environment. Improperly installed underground storage tank systems may result in explosive level vapors in homes and businesses and/or in the contamination of drinking water.

The creation of a Class C certification will provide a specific, limited and less stringent class of certification for the testers.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 47, Series 36, "Underground Storage Tanks"
 Type of Rule: XX Legislative Interpretive Procedural
 Agency Bureau of Environment
 Address Division of Environmental Protection/
Office of Waste Management
1356 Hansford Street
Charleston, WV 25301-1401

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIR & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates: These regulations clarify and simplify existing regulations. No new administrative expenditures are anticipated.
3. Objectives of these rules: To clarify and simplify current regulations and to create a new certification class to allow tank tightness testers an alternative to qualifying for the entire certification Class A.

Rule Title: Title 47, Series 36, "Underground Storage Tanks"

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

No Impact.

B. Economic Impact on Political Subdivision; Specific Industries; Specific groups of Citizens.

The rule will not economically affect those already regulated and will provide a reduced regulation for some of them.

C. Economic Impact on Citizens/Public at Large.

No Impact.

Date: 6/22/95

Signature of Agency Head or Authorized Representative

Roger F Hall
Roger Hall

DATE: June 23, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV Division of Environmental Protection
Office of Waste Management

EMERGENCY RULE TITLE: Title 47, Series 36, "Underground Storage Tanks"

1. Date of Filing June 23, 1995
2. Statutory authority for promulgating emergency rule:
W.Va. Code, § 22-17-6
3. Date of filing of proposed legislative rule:
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?
The rule amends a current legislative rule.
5. Has the same or similar emergency rule previously been filed and expired?
No.
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
The certification section of the regulations requires anyone who repairs or attaches equipment to the tank or piping to be certified in Class A. Class A also allows those certified persons to install new tank and piping systems. As tank tightness testers do make minor repairs and reconnect existing piping and equipment while performing the test they are required to be certified in Class A. A majority of these people have never installed tanks or piping. If they pass the Class A examination the division will be certifying them to perform an installation for which they have no experience. If they should perform an installation without prior experience, human health and safety and the environment may be compromised.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

As stated in #6, the current certification regulations may allow an unqualified person to become certified to install underground storage tank systems.

SUMMARY OF THE PROPOSED RULE

This amendment will clarify and simplify the current requirements in the certification regulations. It will also provide a new class of certification to allow tank and line tightness testers to become certified to perform minor repairs and reconnect existing piping and equipment during testing without having to meet all the qualifications of the Class A certification.

FILED

JUN 23 1 53 PM '95

TITLE 47
LEGISLATIVE RULES
DIVISION OF ENVIRONMENTAL PROTECTION
WATER RESOURCES - WASTE MANAGEMENT

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 36
UNDERGROUND STORAGE TANKS

§47-36-1. General.

1.1. Scope and Purpose. --This legislative rule establishes regulations to govern the construction, installation, upgrading, use, maintenance, testing, and closure of underground storage tanks in this State.

1.2. Authority. --W. Va. Code §22-17-6

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Determination of Stringency. This rule is no more stringent than the federal counterpart regulation; however, the rule may be considered to be broader in scope.

1.6. Constitutional Takings Determination. No constitutional takings of real property are anticipated as a result of this rule.

§47-36-2. Adoption of Federal Regulations.

2.1. The director hereby adopts and incorporates by reference the provisions contained in 40 C.F.R. Part 280 as published in the Code of Federal Regulations on July 1, ~~1994~~ 1995, with the following modifications:

2.1.1. The definition of "Implementing Agency" that appears in 40 C.F.R. §280.12 shall be deleted and replaced by "Implementing Agency means the West Virginia Division of Environmental Protection."

2.1.2. The provisions contained in 40 C.F.R. §280.20(e) shall be deleted and replaced by Section 3 of this rule.

2.1.3. The provisions contained in 40 C.F.R. §280.22 shall be deleted and replaced by Section 4 of this rule.

2.1.4. The phrase "section 9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended" that appears in 40 C.F.R. §280.34 shall be deleted and replaced by the phrase "W. Va. Code §22-17-13".

2.1.5. The provisions contained in 40 C.F.R. §280.34(a)(1) shall be deleted and replaced by "(1) Notification in accordance with the provisions of Section 4 of this rule".

2.1.6. The provisions contained in Appendices II and III of 40 C.F.R. Part 280 shall be deleted.

§47-36-3. Certification Requirements for Individuals Who Install, Repair, Retrofit, Upgrade, Perform Change-in-Service or Close, or Tightness Test Underground Storage Tank Systems.

3.1. The requirements of this Section apply to individuals engaged in underground storage tank system installation, repair, retrofitting, upgrading, change-in-service, ~~or~~ closure, or tightness testing.

3.2. After December 31, 1994, no individual shall conduct an underground storage tank system installation, repair, retrofit, upgrade, change-in-service, or closure and after the effective date of these regulations no individual shall conduct a tightness test unless an individual present at the underground storage tank system site and exercising responsible supervisory control over the installation, repair, retrofit, upgrade, change-in-service, or closure, or tightness test is currently certified by the director in accordance with this Section. The underground storage tank system owner and operator must ensure that the individual supervising the installation, repair, retrofitting, upgrade, change-in-service, and/or closure, and/or tightness testing is certified by the director. The certified individual is equally responsible for ensuring that the underground storage tank system installation, repair, retrofit, upgrade, change-in-service, closure, and/or tightness testing is conducted in accordance with all applicable rules, regulations, and policies established by the director.

3.2.1. An individual who holds a current certificate issued by the director shall be present at all times during:

3.2.1.a. The installation process involving the preparation of the excavation immediately prior to receiving backfill and the tank, the setting of the tank and the piping (including placement of any anchoring devices), backfilling to the level of the tank, strapping, anytime during the installation in which piping components are connected, all testing of the underground storage tank and piping performed during the installation, completion of the backfill and filling of the excavation, and installation of release detection devices within the excavation zone;

3.2.1.b. The repair, retrofitting or upgrading process involving the excavation of existing tanks and/or piping, the actual performance of repairs to the tank and/or piping, anytime during the process when components of the piping are connected, anytime during the repair process when the tank and/or associated piping are tested and at anytime during the process when equipment is connected to the tank and/or piping; ~~and~~

3.2.1.c. The tightness testing of tanks and/or piping; and

~~3.2.1.c.~~ 3.2.1.d. The change-in-service or closure process involving the process of vapor removal, purging, inerting, cleaning and all subsurface sample collection events.

3.3. The underground storage tank system certificates issued by the director will address the following categories:

3.3.1. A Class A certificate will allow the individual certified to install, repair, retrofit or upgrade an underground storage tank system; ~~and~~

3.3.2. A Class B certificate will allow the individual certified to perform a change-in-service or ~~close~~ an underground storage tank system; ~~and~~

3.3.3. A Class C certificate will allow the individual certified to perform tank and/or piping tightness testing and to perform minor repairs and to disconnect and reconnect piping and equipment to an underground storage tank system as is necessary to perform the tightness test.

3.4. An individual applying for a Class A and/or, Class B and/or Class C certificate must file a written application on a form supplied by the director showing the director that he or she meets the following requirements:

3.4.1. The applicant must be an individual. Businesses or corporations may not be certified;

3.4.2. The applicant need not be a resident of West Virginia;

3.4.3. The applicant shall demonstrate ethical practice. The demonstration shall consist of providing to the director written statements from two (2) personal references and two (2) business references attesting to the applicant's ethical practices. In addition, the director may conduct a police check and checks with other certification or licensing boards with which the applicant is registered to determine the nature of violations of Federal, State or local laws and regulations relating to the applicant's performance in an ethical and competent manner. The director may deny the applicant's certification based upon the documentary evidence obtained pursuant to this subdivision;

3.4.4. The applicant must demonstrate ~~two (2) years of experience in active participation in a minimum of ten (10) regulated underground storage tank system installations, repairs, retrofitting retrofits, upgrading upgrades, performances of a change-in-service and, closures, and/or tightness testing conducted after December 22, 1988, as is applicable to the Class A and/or, B and/or C certificate. Closely related work experience may be substituted on a year for year basis upon approval by the director. The~~ An applicant who is a Registered Professional Civil or Mechanical Engineer duly licensed by the State Board of Registration for Professional Engineers of West Virginia may substitute this license a civil or mechanical engineering degree from a recognized college or university for the required experience for Class A or Class B;

3.4.4.a. Applicants shall provide the director a listing of the work performed, site locations, and the names of the companies or employers for whom the work was performed;

3.4.4.b. Applicants for Class C certification must submit proof of a current certification by the manufacturer of each tank and/or piping tightness test method that they will be using and must assure by a signed written statement filed with the director that they will follow the current test protocol established by the manufacturer and policies established by the director;

3.4.5 No applicant shall be issued a certificate unless he or she has successfully passed a written examination administered by the director;

3.4.5.a. Examinations administered to applicants for certification shall be written, multiple choice examinations. The Director shall derive the questions used in the examination from standards, instructions, industry recommended practices and State and Federal laws and regulations pertaining to underground storage tank system installation, repair, retrofitting, upgrading, change-in-service and, closure, and tightness testing. The director can make available to applicants alternative testing procedures;

3.4.5.b. Beginning after July 1, 1994, the director or persons designated by the director shall conduct written examinations at such times and locations within the state as the director may consider necessary;

3.4.5.c. Applicants for certification must correctly answer not less than 80 percent of the questions in a category of certification to qualify for that category of certification; and

3.4.5.d. No applicant may take an examination more than three (3) times within a twelve (12) month period. Applications are considered current for a period of one (1) year from the date they are received by the director. After one (1) year, a new application must be filed and the examination fee paid; and

3.4.6. At the time of the examination the applicant shall remit a nonrefundable \$75 fee by check or money order. This fee shall be deposited in the Underground Storage Tank Administrative Fund. A fee of \$35 shall be assessed for each retesting within the same year.

3.5. All certificates and certificate renewals expire December 31 of every second year. Applications for certificate renewal and payment of a nonrefundable renewal fee of \$50 must be submitted to the director by November 1 of the year in which the certificate expires. An individual whose certificate has expired prior to his or her submission of an application for renewal is considered a new applicant for certification.

3.5.1. An individual may renew his or her certificate for another two (2) year period by:

3.5.1.a. Paying the renewal fee; and

3.5.1.b. Submitting on a form supplied by the director a certificate renewal application demonstrating that he or she has completed sixteen (16) hours of director approved continuing education training courses and has participated in at least one (1) job applicable to the class of certification within the certification period:

3.5.1.b.A. The ~~continued~~ continuing education training course must be relevant to the subject area of installation, repair, retrofitting, upgrading, change-in-service, closure, tightness testing or the regulation of underground storage tank systems as it relates to the category of certification and offer instruction on the most current generally acceptable technology or methods for these subjects; and

3.5.1.b.B. Applications for approval of specific training programs shall be submitted by the training provider to the director in writing. The submissions shall contain a complete course outline, training material, sample certificates, the methodology for verifying attendance, the date, time and location of the course, the name of the offering organization, the credentials of the instructors, and a certification that the technology or methods that will be presented in the training program will satisfy state and federal laws governing underground storage tank system installation, repair, retrofitting, upgrading, change-in-service, ~~or~~ closure, or tightness testing; or

3.5.1.c. Submitting on a form supplied by the director a certificate renewal application, demonstrating that he or she has participated in at least one (1) job applicable to the class of certification within the certification period and successfully passing the written examination described in Section 3.4.5. of this rule. At the time of the examination, the applicant applying for renewal must remit a nonrefundable \$50 fee by check or money order.

3.6. Upon issuance of the certification the director shall issue an identification card to the successful applicant that shows the individual's name, social security number, certificate issuance date, certificate expiration date, certification number and the class of certification.

3.6.1. An individual who holds a current certificate shall present his or her identification card upon request by a representative of the director or the owner or operator of the underground storage tank system for which an installation, repair, retrofit, upgrade, change-in-service or closure or tightness test is to be conducted.

3.7. Should an applicant be denied issuance or renewal of certification or should the individual's certificate be revoked, the reason or reasons for the denial or revocation shall be set forth in writing to the individual by the director.

3.7.1. Possible reasons for denial of issuance of certification, renewal of certification or revocation of certification may include, but are not limited to, failure to achieve a passing score on the written examination described in Section 3.4.5. of this rule, failure to submit required documentation, failure to follow the tank and/or piping tightness testing manufacturer's protocol and/or policies established by the director, previous revocation of certification held by the applicant, evidence of fraud or deceit with respect to the certification application, failure to present the identification card upon request of a director's representative, violations of the laws or rules of West Virginia, for ethical considerations enumerated in Section 3.4.3. of this rule, and/or any other cause that, in the opinion of the director, constitutes adequate grounds for denial or revocation of a certificate.

3.7.2. An individual who has been denied issuance or renewal of certification or who has had a certificate revoked may appeal the action to the Environmental Quality Board pursuant to the provisions of WV Code §22-17-18.

3.8. Any individual who violates the provision of Section 3 of this rule is subject to enforcement action under WV Code §22-17-1 et seq.

§47-36-4. Notification Requirements.

4.1. Except as provided in Section 4.1.1, 4.1.2, or 4.1.3 of this rule, the owner or operator of an underground storage tank system that was in the ground prior to May 1, 1990, must submit a notice of the existence of such tank system to the director by completing the form prescribed in Appendix I of this rule.

4.1.1. The owner or operator of an underground storage tank system that was in the ground prior to May 1, 1990, is exempt from the notification requirements of Section 4.1 of this rule if notice was previously given to the director in accordance with the provisions of the federal Hazardous and Solid Waste Amendments of 1984 on the form published in the Federal Register on November 8, 1985 (50 F.R. 46602), unless such notice was given pursuant to Section 103(c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

4.1.2. The owner or operator of an underground storage tank system that was removed from the ground on or before May 8, 1986, is exempt from the notification requirements of Section 4.1 of this rule.

4.1.3. The owner or operator of an underground storage tank that was installed before December 22, 1988, need only complete Sections I through X of the form prescribed in Appendix I of these regulations. Tank systems installed on or after December 22, 1988, must comply with the provisions of Section 4.2 of this rule.

4.2. All owners and operators of underground storage tank systems installed on or after December 22, 1988, must provide the director, in addition to the provisions of Section 4.1.3 of this rule, notification of compliance with the following requirements:

4.2.1. For underground storage tank systems installed on or after December 22, 1988, and before January 1, 1995, installation of tanks and piping as certified under Section XI of the form prescribed in Appendix I of these regulations, excluding Item B (Installer certified or licensed by the implementing agency) under Section 1 (Installation) of Part XI (Certification of Compliance).

4.2.2. For underground storage tank systems installed on or after January 1, 1995, installation of tanks and piping by an individual certified by the director in accordance with Section 3 of these regulations.

4.2.3. Cathodic protection of steel tanks and piping in accordance with the provisions of 40 C.F.R. §§280.20(a) and 280.20(b).

4.2.4. Spill and overflow prevention equipment in accordance with the provisions of 40 C.F.R. §280.20(c).

4.2.5. Financial responsibility in accordance with the provisions of 40 C.F.R. Part 280 Subpart H.

4.2.6. Release detection in accordance with the provisions of 40 C.F.R. §§280.41 and 280.42.

4.3. All owners and operators of underground storage tank systems to be installed on or after ~~the effective date of this rule~~ June 14, 1993, must notify the director in writing at least thirty (30) days prior to beginning the installation. The thirty (30) day time period may be waived when such action is in response to a release from an existing UST system on the site.

4.4. All owners and operators of UST systems must ensure that:

4.4.1. When the system was installed on or after December 22, 1988, and before January 1, 1995, the installer certifies, in the notification form, that the methods used to install the tanks and piping comply with the requirements of 40 C.F.R. §280.20(d); and

4.4.2. When the system was installed on or after January 1, 1995, the installation of tanks and piping was performed by an individual certified by the director in accordance with Section 3 of these regulations. The installer must certify in the notification form that the methods used to install the tanks and piping comply with the requirements of 40 C.F.R. 280.20(a) through (d).

4.5. An owner or operator who is required to submit notices under Section 4 of these regulations may provide notice for several tanks by using one notification form, but an owner of tanks located at more than one place of operation must file a separate notification form for each separate place of operation.

4.6. After June 10, 1988, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of the tank of the owner's notification obligations under Section 4 of these regulations. The following notice may be used to comply with the requirement:

"NOTICE: Owners of certain underground storage tanks in West Virginia are required by law to notify the director of the Division of Environmental Protection of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within thirty (30) days. Consult the Division's Underground Storage Tank Rule (47 C.S.R. 36) to determine if you must provide this notification."

4.6.1. After June 14, 1993, any Any person who sells an existing tank intended to be used as an underground storage tank must notify the director in writing at least thirty (30) days prior to the transfer of ownership.

4.7. Except as provided in Section 4.6.1 of these regulations, the owner or operator must report changes in the status of any underground storage tank system by completing the form prescribed in Appendix I of these regulations and then submitting that form to the director by December 31 of the year in which the change of status occurred.

4.7.1. A new owner of an underground storage tank must provide notification of the transfer of ownership of that tank by completing the form prescribed in Appendix I of these regulations along with proof of financial responsibility in accordance with the provisions of 40 C.F.R. Part 280 Subpart H and then must submitting that form this information to the director within thirty (30) days of the transfer.

§47-36-5. Carriers.

5.1. Carriers (private, common, or for-hire) of regulated substances shall not deliver regulated substances into an underground storage tank unless the division has certified that the underground storage tank owner or operator is in compliance with the requirements of: the Underground Storage Tank Fee Assessments (47 C.S.R. 37), Notification Requirements (47 C.S.R. 36 Section 4); and Capitalization Fee Requirements (47 C.S.R. 37A Section 5) and the owner or operator presents proof of this certification along with proof of financial responsibility in compliance with 40 C.F.R. Part 280 Subpart H to the carrier.

5.2. Any carrier who violates the provision of Section 5.1 of these regulations is subject to enforcement action under WV Code §22-17-1 et seq.

Notification for Underground Storage Tanks	STATE USE ONLY
<small>State Agency Name and Address</small> WV Div. of Environmental Protection, Office of Waste Mgmt., UST Section 1356 Hanford Street, Charleston, WV 25301	ID NUMBER
TYPE OF NOTIFICATION	F.E.I.N. No.
<input type="checkbox"/> A. NEW FACILITY <input type="checkbox"/> B. AMENDED <input type="checkbox"/> C. CLOSURE	A. Date Entered into Computer _____
_____ No. of tanks at facility _____ No. of continuation sheets attached	B. Data Entry Clerk Initials _____
INSTRUCTIONS	C. Owner Was Contacted to Clarify Responses. Comments _____
Please type or print in ink all items except "signature" in section VIII. This form must be completed for each location containing underground storage tanks. If more than five (5) tanks are owned at this location, photocopy the following sheets, and staple continuation sheets to the form.	

GENERAL INFORMATION

Notification is required by Federal law for all underground tanks that have been used to store regulated substances that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act, (RCRA), as amended.

The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records, or in the absence of such records, your knowledge, belief, or recollection.

Who Must Notify? Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means—

- a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and
- b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use;
- c) if the State agency so requires, any facility that has undergone any changes to facility information or tank system status (only amended tank information needs to be included).

What Tanks Are Included? Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances," and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: 1. Gasoline, used oil, or diesel fuel; and 2. industrial solvents, pesticides, herbicides or fumigants.

What Tanks Are Excluded? Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:

- 1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
- 2. tanks used for storing heating oil for consumptive use on the premises where stored;

- 3. septic tanks;
- 4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an interstate pipeline facility regulated under State laws;
- 5. surface impoundments, pits, ponds, or lagoons;
- 6. storm water or waste water collection systems;
- 7. flow-through process tanks;
- 8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;
- 9. 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.

What Substances Are Covered? The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subcode C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

Where To Notify? Send completed forms to:

WV Division of Environmental Protection
Office of Waste Management
UST Section
1356 Hanford Street
Charleston, WV 25301

When To Notify? 1. Owners of underground storage tanks in use or that have been taken out of operation, but still in the ground, must notify by May 8, 1986. 2. Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use. 3. If the State requires notification of any amendments to facility information to State agency immediately.

Penalties: Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or for which false information is submitted.

I. OWNERSHIP OF TANK(S)

II. LOCATION OF TANK(S)

Owner Name (Corporation, Individual, Public Agency, or Other Entity) _____

Street Address _____

City _____ State _____ ZIP Code _____

County _____

Phone Number (include Area Code) _____

If required by State, give the geographic location of tanks by degrees, minutes, and seconds. Examples Lat. 42, 36, 12 N Long. 45, 24, 17W

Latitude _____ Longitude _____

(if same as Section I, mark box here)

Facility Name or Company Site Identifier, as applicable _____

Street Address (P.O. Box not acceptable) _____

City _____ State _____ ZIP code _____

County _____ Municipality _____

III. TYPE OF OWNER	IV. INDIAN LANDS	
<input type="checkbox"/> Federal Government <input type="checkbox"/> Commercial <input type="checkbox"/> State Government <input type="checkbox"/> Private <input type="checkbox"/> Local Government	<input type="checkbox"/> Tanks are located on land within an Indian Reservation or on other trust lands. <input type="checkbox"/> Tanks are owned by native American nation, tribe, or individual.	Tribe or Nation: _____ _____

V. TYPE OF FACILITY		
Select the Appropriate Facility Description		
<input type="checkbox"/> Gas Station <input type="checkbox"/> Petroleum Distributor <input type="checkbox"/> Air Taxi (Airline) <input type="checkbox"/> Aircraft Owner <input type="checkbox"/> Auto Dealership	<input type="checkbox"/> Railroad <input type="checkbox"/> Federal - Non-Military <input type="checkbox"/> Federal - Military <input type="checkbox"/> Industrial <input type="checkbox"/> Contractor	<input type="checkbox"/> Trucking/Transport <input type="checkbox"/> Utilities <input type="checkbox"/> Residential <input type="checkbox"/> Farm <input type="checkbox"/> Other (Explain) _____

VI. CONTACT PERSON IN CHARGE OF TANKS			
Name	Job Title	Address	Phone Number (Include Area Code)

VII. FINANCIAL RESPONSIBILITY		
I have met the financial responsibility requirements in accordance with 40 CFR Subpart H		<input type="checkbox"/>
Check All that Apply <input type="checkbox"/> Self Insurance <input type="checkbox"/> Commercial Insurance <input type="checkbox"/> Risk Retention Group	<input type="checkbox"/> Guarantee <input type="checkbox"/> Surety Bond <input type="checkbox"/> Letter of Credit	<input type="checkbox"/> State Funds <input type="checkbox"/> Trust Fund <input type="checkbox"/> Other Method Allowed Specify _____

VIII. CERTIFICATION (Read and sign after completing all sections)		
I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.		
Name and official title of owner or owner's authorized representative (Print)	Signature	Date Signed

EPA estimates public reporting burden for this form to average 30 minutes per response including time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding this burden estimate to Chief, Information Policy Branch PM-223, U.S. Environmental Protection Agency, 401 M Street, Washington D.C. 20460, marked "Attention Desk Officer for EPA." This form amends the previous notification form as printed in 40 CFR Part 280, Appendix I. Previous editions of this notification form may be used while supplies last.

IX. DESCRIPTION OF UNDERGROUND STORAGE TANKS (Complete for each tank at this location.)

Tank Identification Number	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____
1. Status of Tank (mark only one)	Currently in Use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Temporarily Out of Use <small>(Remember to fill out Section X.)</small>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Permanently Out of Use <small>(Remember to fill out Section X.)</small>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Amendment of Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Date of Installation (mo./year)					
3. Estimated Total Capacity (gallons)					
4. Material of Construction (Mark all that apply)	Asphalt Coated or Bare Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cathodically Protected Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Epoxy Coated Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Composite (Steel with Fiberglass)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Fiberglass Reinforced Plastic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Lined Interior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Double Walled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Polyethylene Tank Jacket	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Concrete	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Excavation Liner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Other, Please specify	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has tank been repaired?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Piping (Material) (Mark all that apply)	Bare Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Galvanized Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Fiberglass Reinforced Plastic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Copper	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cathodically Protected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Double Walled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Secondary Containment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other, Please specify	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Piping (Type) (Mark all that apply)	Suction: no valve at tank	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Suction: valve at tank	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pressure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gravity Feed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Has piping been repaired?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Tank Identification Number	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____	
7. Substance Currently or Last Stored In Greatest Quantity by Volume	Gasoline	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Diesel	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Gasohol	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Kerosene	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Heating Oil	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Used Oil	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Other, Please specify	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<hr/>						
Hazardous Substance CERCLA name and/or, CAS number	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<hr/>						
Mixture of Substances Please specify	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<hr/>						
X. TANKS OUT OF USE, OR CHANGE IN SERVICE						
1. Closing of Tank						
A. Estimated date last used (mo./day/year)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<hr/>						
B. Estimate date tank closed (mo./day/year)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<hr/>						
C. Tank was removed from ground	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
D. Tank was closed in ground	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
E. Tank filled with inert material Describe	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
F. Change in service	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<hr/>						
2. Site Assessment Completed	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<hr/>						
Evidence of a leak detected	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

XI. CERTIFICATION OF COMPLIANCE (COMPLETE FOR ALL NEW AND UPGRADED TANKS AT THIS LOCATION)

Tank Identification Number	Tank No. ____	Tank No. ____	Tank No. ____	Tank No. ____	Tank No. ____
1. Installation					
A. Installer certified by tank and piping manufacturers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Installer certified or licensed by the implementing agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Installation inspected by a registered engineer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Installation inspected and approved by implementing agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Manufacturer's installation checklists have been completed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Another method allowed by State agency. Please specify.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Release Detection (Mark all that apply)	TANK	PIPING	TANK	PIPING	TANK	PIPING	TANK	PIPING	TANK	PIPING
A. Manual tank gauging	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
B. Tank tightness testing	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
C. Inventory controls	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
D. Automatic tank gauging	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
E. Vapor monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Groundwater monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Interstitial monitoring double walled tank/piping	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Interstitial monitoring/secondary containment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I. Automatic line leak detectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Line tightness testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K. Other method allowed by Implementing Agency. Please specify.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Spill and Overfill Protection					
A. Overfill device installed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Spill device installed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OATH: I certify the information concerning installation that is provided in section XI is true to the best of my belief and knowledge.

Installer: _____
 Name _____ Signature _____ Date _____
 Position _____ Company _____

WV Certification Number _____



BUREAU OF ENVIRONMENT
10 McJunkin Road
Nitro, WV 25143-2506

GASTON CAPERTON
GOVERNOR

LAIDLEY ELI MCCOY, PH.D.
COMMISSIONER

August 3, 1995

Ms. Judy Cooper
Director, Administrative Law
Division
Secretary of State's Office
Building 1, Suite 157K
Capitol Complex
Charleston, West Virginia 25305-0770

Dear Ms. Cooper:

The purpose of this letter is to withdraw Emergency Rule 47CSR36, Underground Storage Tanks, filed with the Secretary of state's office and Legislative Rule-Making on June 23, 1995.

Thank you for your consideration and effort in this matter. If you have any questions, please call me at 759-0515.

Sincerely,

Roger T. Hall
Special Assistant to Director

RTH:cc

cc: Ms. Marie Nickerson
Legislative Rule-Making

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

AUG 4 2 52 PM '95

FILED



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A handwritten signature in black ink that reads "Roger T. Hall".

Roger T. Hall
Special Assistant to Director

RTH:cc

cc: Ms. Marie Nickerson
Legislative Rule-Making