



Stakeholder Meeting - Notice to Solicit Comments on Proposed
Underground Storage Tank and Certification Program Regulations
Potential Small Business Impact

Stakeholder Meeting Transcript

The Nevada Division of Environmental Protection (NDEP) held Public Stakeholder Meetings on proposed Underground Storage Tank (UST) and Certification Program Nevada Administrative Code (NAC) revisions and potential small business impacts. The purpose of these Stakeholder Meetings was to inform the public and regulated community about proposed regulatory changes and solicit comments from interested persons. The Stakeholder Meetings were held at the following locations:

**May 25, 2016
11:00 AM to 2:00 PM**

**Elko County Library
720 Court St.
Elko, NV 89801**

**May 27, 2016
11:00 AM to 2:00 PM**

**Grant Sawyer Building
555 E. Washington Ave.
Ste 4412
Las Vegas, NV 89101**

**June 1, 2016
10:00 AM to 1:00 PM**

**Airport Plaza Hotel
1981 Terminal Wy.
Aztec Rm
Reno, NV 89502**

Attendees:

NDEP Staff:

Jonathan McRae, USL/LUST Program Supervisor, Bureau of Corrective Actions (BCA)
Rebecca Bodnar, CEM Program Supervisor, BCA
Mike Cabble, UST/LUST Program, BCA
Xavier Tarango-Castorena, UST/LUST Program, BCA
Ben Wilkinson, CEM Program, BCA
Kim Valdez, Administration Branch, BCA

Public:

Elko, May 25, 2016:

Bruce Ripie, Cactus Pete's Casino
Matt Hansen, KJ's Airport Shell
Bo Nelson, Element Construction
Jesse Ledinsky, Element Construction
Cody Engedretson, LA Perks Petroleum
Nicole Abbott, KJ's Airport Shell

Public (cont.):

Las Vegas, May 27, 2016:

Michael Nelson, Clark County Department of Aviation
Zach Amos, The Westmark Group
Gary Larsen, Riverside Resort and Casino
Brian Northam, Southern Nevada Health District
Lynn Cintron, Southern Nevada Health District
Dave Larson, Mr. D's Fastlane
Brad Folkins, River City Petroleum
Jon Bell, Broadbent and Associates
Jeremy Holst, Broadbent and Associates
Mark Zimmerman, Frias Management
John Sharples, Silver State Petroleum
Tony Matsumoto, Converse Consultants
Keith Phillips, Best Petroleum Services
Jeremy Watson, Best Petroleum Services
Von Rasmussen, Wynn Las Vegas
Denie Rasmussen, NV Energy
Bill Wolfe, Cold Creek Home Owners Association
Gina Ran, Barrick Gold
Chase Jones, Tom Jones Chevron
Kristena Spaeth, Service Station Compliance Testing
Paul Roach, Service Station Compliance Testing
Nemesio Orozco, Showtime Tours
Ken Blanchette, Clark County Water Reclamation District

Reno, June 1, 2016:

Richard Wright, Jackson's Food Stores
Glenn Hale, HER Services Inc.
Chip Hughes, Pilot Flying J
John Sagebiel, University of Nevada Reno
Elizabeth Orizaga, Flyers Energy LLC
Bryan Vetrano, Broadbent & Associates
Brian Reed, Nevada Department of Transportation
Victor Honein, MAPP Enterprises Inc.
Lori Anspoch, Reno Transportation Commission
James English, Washoe County Health District
Lee Perks, LA Perks Petroleum
Hunt Hewly, LA Perks Petroleum
Todd Welty, Reno Tahoe Airport Authority
Andy Labosky, Petro West / Best Petroleum
Steve Moreland, Petro West / Best Petroleum
Rob Piekarz, Nevada Department of Transportation
Ajmer Sroa, Stagecoach Market
Terry Kelley, General Store Moundhouse
Roberta Diesner, General Store Moundhouse
Calvin Laningham, Nevada State Fleet Services
Ron Harris, Nevada State Fleet Services
Adheydeep Singh Virk, Regency Petroleum
Prahjot Raur Virk, Regency Petroleum

Paraphrased Public Questions and Comments

Paraphrased letter addressed to Mr. Jonathan McRae NDEP UST / LUST Program Supervisor, from James English EHS Supervisor with the Washoe County District Health Department (WCHD), dated May 26, 2016:

Public Comment -

WCHD does not have issues with the proposed changes and supports the streamlining of existing sections. WCHD believes the regulation update should allow the opportunity to update the current State Program and allow enforcement agencies to collect fees associated with implementation and enforcement of proposed regulations and subsequent adoption by reference of the UST federal regulations revisions by reference in to state regulation. WCHD also requests to review the business impact statement for those proposed regulations and feels the financial cost of some of the changes may be a financial hardship to implementing agencies.

Elko Stakeholder Meeting:

Public Comment -

In 2018 when 989 testing is required, is the State going to require companies to obtain new licensing or training?

NDEP Reply -

A determination regarding hydrostatic, vacuum, or pressure testing for spill buckets or sumps has not been made. The regulation as written does not spell out a special training requirement but there are protocols that need to be followed. The Petroleum Institute is the most referenced resource testing standard, it is a standard 1200 and further information may be obtained from their website.

The State of Nevada, NDEP, is delegated through the Federal Government; therefore NDEP is following the 2018 start date requirement which allows for consistency nationwide.

Also this requirement applies to existing systems. New systems that require periodic testing at the time of instillation, have a start date at the time of installation.

Las Vegas Stakeholder Meeting:

Public Comment -

What is the implementation date for new construction sites to not install ball floats? We're looking for a specific date to stop new construction from installing them.

NDEP Reply -

The 40 CFR Regulations state the April 2016 date, which has passed. For Nevada there will be no more ball floats effective when the new state NAC regulations are adopted and go into effect.

Public Comment -

How are construction projects that are in progress right now being handled?

NDEP Reply -

Nevada has not received EPA's State Program approval; therefore Nevada cannot legally implement these rules. Other options may be discussed with new construction projects by informing them that ball floats must be pulled for inspection every three years, which starts from the date of installation.

Public Comment -

SIR is now added for approved leak detection; however is it correct that a double wall tank could not use SIRs primarily for detection?

NDEP Reply -

Correct. SIR is a method added to the federal rule and allowed for continued use in an existing system. New systems or replacing something in an existing system, need to upgrade to containment and interstitial monitoring.

Public Comment -

Is NDEP or an implementing agency going to continue witnessing sump testing, as is currently the case?

NDEP Reply -

If an inspector chooses to be present, they may be. Also they may request that the testing be done at the time of inspection.

Public Comment -

As the program becomes defined will this be scheduled with NDEP or an implementing agency? Or that something we would discuss with our inspector?

NDEP Reply -

In regards to Clark County, NDEP leaves that to the discretion of Southern Nevada Health District (SNHD) as the implementing agency, but SNHD does have the ability to request to be present for testing.

Public Comment -

If an operator prefers to use SIR, and has several stations with double wall tanks that currently use SIR will that continue to be accepted?

NDEP Reply -

If this is an existing station, as defined in Nevada's operator training requirements in place since July 1, 2008, and the tanks were installed and in operation on or after July 1, 2008 they are required to use secondary containment and interstitial monitoring. If the tank was installed prior to July 1, 2008 and has no replacements to the system, they may continue SIR until the tanks are updated or replaced.

Public Comment -

Would a Level A or Store Manager qualify for monthly inspections of monitoring equipment?

NDEP Reply -

Nevada has a certification program regarding tightness testing that does not include periodic testing and walkthrough inspections. Currently monthly inspections of monitoring equipment may be performed by a technician certified by the manufacturer of the leak detection system. If a Store Manager demonstrates to NDEP or an implementing agency they can do it, the caveat would be a manufacturer stating they do not want non-certified individuals working on their equipment.

Public Comment -

Is the Washoe County Health District (WCHD) or NDEP going to request presence on testing in Norther Nevada?

NDEP Reply -

WCHD is the implementing agency for Washoe County and they will make that decision. Rural counties outside of Washoe and Clark are NDEP's jurisdiction and become the discretion of the NDEP inspector. In order to record that testing is taking place, the implementing agency may choose to require notification that testing is occurring.

Public Comment -

Is there going to be a required notification form or permit that needs to be completed for testing?

NDEP Reply -

NDEP is holding stakeholder meetings to build infrastructure that will be developed. Most likely we would require a notification, and will place that on the build for the future.

Public Comment -

Is online A/B operator training going to be accepted? How will we know if they are certified through the State of Nevada to offer training?

NDEP Reply -

Yes, as long as the company is certify through the State of Nevada online training will be accepted. NDEP has reached out to eighteen listed companies, and those currently in operation will be certifying with the State of Nevada. A list of certified companies will be online, as is the current procedure for Certified Environmental Managers (CEMs).

Public Comment -

Does an outside source have to perform the 30 day walkthrough inspections?

NDEP Reply -

The 30 day walkthrough inspection is geared toward having the operators look at their equipment. The operator can open a stow bucket lid, clean the debris out, pull the cap, check for a drop safe in the fill tube. Operators must maintain the records, just as if they had paid another company to inspect the equipment for them.

Public Comment -

Does the annual inspection need to be performed by an outside source?

NDEP Reply -

Annual inspections are to be handled by a technician. Annual inspections are not visual, rather the technician is looking at functionality of the ATG console, verifying programming, pulling probes to ensure they are not coated with residue, and testing all sensors for functionality. This is generally going to be handled by the service contract.

Public Comment -

When hydrostatic or vacuum testing the sump, is the fill sump going to need to be tested also?

NDEP Reply -

Any sump used for interstitial monitoring of the piping needs to be tested. Generally a fill sump won't have piping; the exception might be an emergency generator tank. Aside from that, piping floats down to the turbine sump. If a system has open interstice underneath the dispenser sumps and you're relying on an upstream leak to go into that sump, fill up, go down to the next pipe, next sump, fill up and so on, then each one of those sumps require testing because they are used to monitor the line.

NDEP Comment -

NDEP would like to make a statement. Inspectors and implementing agencies have started seeing the above mentioned situation at several sites in Nevada, particularly those that have used old total containment piping where you've got the larger diameter chase or corrugated secondary. Sites are pulling the old equipment out, fishing new equipment in, and not considering monitoring that will become necessary for those sumps. Many contractors that have seen this may already be aware that there may not be a good way to seal up that larger diameter corrugated pipe to a new smaller diameter pipe being fished through. NDEP would caution contractors working on these systems, as old pipe is fished out start replacing penetration boots so that you can downsize to your new pipe and allow for testing of those monitoring sumps. We have seen a few come out, and then have had to tell the owner/operators after the fact. It's much easier to retrofit those old sumps when the old pipe is out, if not replace them depending on which way the owner wants to go.

Reno Stakeholder Meeting:

Public Comment -

We use an inventory reconciliation method for tanks that are 551 - 1,000 gallons. What about tanks less than 551 gallons?

NDEP Reply -

That is the manual tank gauging method and it only applies to existing tanks. If you got a tank that's already in the ground that's less than 550 gallons you may use the manual tank gauging method.

Public Comment -

What about secondary containment on piping? Is the follow-up testing required every three years included in the secondary containment?

NDEP Reply -

Secondary containment requirements have been updated in 40 CFR 280. The State of Nevada has had those requirements in place since 2008, under the Energy Policy Act. The federal rule focuses on the sumps and not so much the product line itself, aside from installation. You are probably not going to be required to test the secondary on the line unless there's a suspected release or other indication of release from the line. Sumps being used to monitor the line are required to have three-year periodic testing, because that's where it engrains to.

Public Comment -

Will we need to cap off the secondary containment, or piping to test it?

NDEP Reply -

If an existing system or a brand new system that goes in the ground with double wall piping is using interstitial monitoring, the containment sumps will need to be tested. You will need to have a way to isolate the secondary of that product line to test those sumps. If you don't have test boots installed now, they will need to be installed.

Public Comment -

If a site was built before the double wall contained monitoring rule, do we have to test those sumps?

NDEP Reply -

If a tank was installed prior to the Energy Policy Act adoption date of July 1, 2008, and you are currently using interstitial monitoring for that pipe the sumps need to be tested. If interstitial monitoring for the piping is not in use, you may continue using the method currently in place. If there is an upgrade or the line fails, then that triggers secondary containment rules.

Public Comment -

If testing the bottom of a sump approximately six inches up, but below all penetration fittings, and the ATG is programed for a positive shut down, can test that way versus hydrostatically testing the entire sump? Other States currently allow that.

NDEP Reply -

In the currently written rule there is no allowance for that, NDEP would have to evaluate that and cannot provide a definitive answer today. If the manufacturer allows that particular method, or there's a practice that's been put out by the Petroleum Equipment Institute (PEI) Standard 1200 that is referenced in the rule, that is something the State of Nevada may start with and use initially. If it's allowed in PEI we may accept it, if not that scenario would have to be evaluated independently. It needs to be as good as methods required by the manufacturer.

Public Comment -

In regards to testing, it was mentioned that testing has to be either the manufacturer's suggested method or PEI's. What has been noted in other States was if using hydrostatic testing on some sumps, and that is not a manufacturer recommended testing method, the manufacturer's warranty could potentially void.

NDEP Reply -

NDEP concurs. If the manufacturer recommends a testing method, that's going to be the appropriate method in order to keep equipment warranted. That is good information to hear from the regulated community.

Public Comment -

Is the certification program going to be involved with requirements for individuals that perform secondary containment testing and work on leak detectors? Will uncertified individuals be allowed to work on leak detectors?

NDEP Reply -

NDEP's certification program will be certifying companies that train people to do that work.

Public Comment -

Is NDEP going to require only an underground tank handler's license to perform testing, or that they have the manufacturer's certification to perform testing?

NDEP Reply -

That is not required in the rule and is not specified in any of the practices. As an operator, if you're using a piece of equipment that requires a certified technician to use or test it, that would be the recommended method. However the State of Nevada is not going to be the intermediary and require that practice.

Public Comment -

So actually, an owner can do their own testing, including hydrostatic testing?

NDEP Reply -

An owner may perform some of the testing, for example the periodic walkthrough inspections or performing hydrostatic testing and then properly disposing of the water afterwards. Per the rule, if an owner can carry out any test they may.

Public Comment -

Is NDEP going to monitor any type of way stream documentation on the water? Our hope is that would be the case.

NDEP Reply -

This is something to evaluate and is based on what is tested. There is no concern if a spill bucket or sump is new or relatively clean of petroleum constituents within test fluid. As a site ages, grime and other liquids accumulate depending on how often the test fluid is used. When a hazardous waste threshold is triggered NDEP would instruct you to properly dispose of that fluid. As this becomes more prevalent NDEP may choose to require documentation or leave that to a certified tester. There's more discussion that needs to be had on how to handle that moving forward.

Public Comment -

If we have been certified with A/B is that only good for two years? Would we need to re-certify?

NDEP Reply -

A/B certification is only for trainers, not those being trained. The update would be for the training programs and not the operators to ensure third parties are providing current training programs and also complying with 40 CFR Part 280.

Public Comment -

I am an operator and received training 3 years ago. Will I need re-training?

NDEP Reply -

Current requirements for Class A, B or C operators are not changing and you will be able to maintain your current certificate. The companies that provide training to operators will be coming to the Certification Program to ensure their training program meets federal requirements. The only time an operator would need to retrain is if their facility is found to be non-compliant.

Public Comment -

After October 18th, 2016 will NDEP inform us of the final outcome?

NDEP Reply -

If any questions or further comments come up after the meeting regarding this process, please contact us to discuss.

After the question and comment period at all three Stakeholder Meetings, Mr. McRae opened a second public comment period on any matter not included on the workshop agenda. There being no comments by attendees, Mr. McRae adjourned each of the Stakeholder Meetings.