

**Synopsis of
Proposed Amendments to the Rules of the
Department of Natural Resources
Environmental Protection Division
Relating to Chapter 391-3-15
Underground Storage Tank Management**

Rule 391-3-15-.02, “Definitions,” paragraph (h) is being amended by adding the reference to the US Energy Act.

Purpose: The purpose for amending paragraph (h) is to update the definition of “Federal Act” to include specific amendments made by the Energy Policy Act of 2005.

Main Features: The definition of “Federal Act” is updated to include the statutory amendments to the Federal Act as that term is used in the Rules.

Rule 391-3-15-.05, “UST Systems”, paragraph (2) thereof is being amended by adding reference to secondary containment requirements.

Purpose: Adds requirement for compliance with secondary containment for reinstallation of any tank.

Main Features: Requires that, in addition to having a tank recertified prior to reuse, the tank must also comply with the secondary containment provisions in the Rules before it can be reinstalled.

Rule 391-3-15-.05, “UST Systems”, paragraph (4) thereof relating to “Annual Registration of USTs”, is hereby amended by adding subparagraphs (b) 7. and (b) 8.

Purpose: These subparagraphs are being added to clarify the necessary information required from owners and operators on the statutorily required annual tank registration.

Main Features: Adding subparagraph 7. resolves an ambiguity as to whether the devices described therein must be reported as simply being properly installed or be reported as being both properly installed and operationally functional. By adding subparagraph 8., the revision clearly establishes the requirement that if required in these Rules secondary containment, interstitial monitoring and motor fuel dispensers, must be reported to EPD.

Rule 391-3-15-.07, “Release Detection” is hereby amended by adding paragraph (3) to require the use of secondary containment and interstitial monitoring of certain UST systems (tanks and piping, specifically including tanks and piping used for emergency power generation which had been previously deferred from leak detection requirements of the Rules), replaced after the effective date of these rules.

Purpose: Paragraph (3) is added to the Rules to comply with the federal EPA’s guidelines issued pursuant to Section 1530 of the Energy Policy Act of 2005 to assure that Georgia is in compliance with the Energy Policy Act and will continue to receive federal funding under RCRA to assist in administering the UST Program.

Main Features: This amendment provides for additional protection for Georgia’s groundwater by providing secondary containment and better monitoring of leaks that might occur from new or replaced UST systems located within 1,000 feet of any community water system or potable drinking water well as defined in the Rule.

Rule 391-3-15-.07, “Release Detection”, paragraph (3) thereof, is amended by the addition of subparagraphs (a) through (f) to provide definitions to new and previously undefined terms.

Purpose: These definitions are added to assure consistency with the federal EPA’s guidelines issued pursuant to Section 1530 of the Energy Policy Act of 2005 and to assure that Georgia is in compliance with the Energy Policy Act and will continue to receive federal funding under RCRA to assist in administering its UST Program.

Main Features: These definitions, while explaining certain terminology introduced in these Rules for petroleum systems, are also designed to provide the regulated community with clear parameters of when these new requirements apply, namely, replaced or new UST systems and where they apply as related to the proximity of the UST systems to certain drinking water sources.

Rule 391-3-15-.07, “Release Detection”, is hereby further amended by adding paragraph (4) to require the installation of under-dispenser containment for certain motor fuel dispensers installed or replaced after the effective date of these rules.

Purpose: Paragraph (4) is added to the Rules to comply with the federal EPA’s guidelines issued pursuant to Section 1530 of the Energy Policy Act of 2005 so that Georgia is in compliance with the Energy Policy Act and will continue to receive federal funding under RCRA to assist in administering its UST Program.

Main Features: This amendment provides additional protection for Georgia's groundwater to contain any release that might occur from a motor fuel dispenser by requiring under dispenser containment for all new or replaced motor fuel dispensers located within 1,000 feet of any community water systems or potable drinking water wells.

Rule 391-3-15-.07, "Release Detection", paragraph (4) thereof, is amended by the addition of subparagraphs (a) and (b), new motor fuel dispenser and motor fuel, respectively.

Purpose: These definitions are added to assure consistency with the federal EPA's guidelines issued pursuant to Section 1530 of the Energy Policy Act of 2005 so that Georgia is in compliance with the Energy Policy Act and will continue to receive federal funding under RCRA to assist in administering its UST Program.

Main Features: This amendment provides additional protection for Georgia's groundwater by requiring under dispenser containment, a previously undefined term for new motor fuel dispensers or replaced motor fuel dispensers after the effective date of this rule.

Rule 391-3-15-.13, "Georgia Underground Storage Tank Trust Fund", subparagraph (l) (b) 3. (i) thereof, is amended by adding references to compliance with prior rules.

Purpose: Amended to clearly define requirements for Trust Fund eligibility in light of new technical requirements for UST operation.

Main Features: Removes any ambiguity as to whether these new features of secondary containment, interstitial monitoring and under dispenser containment for new or replaced motor fuel dispensers is required for participation in the Trust Fund.

Rule 391-3-15-.13, "Georgia Underground Storage Tank Trust Fund", subparagraph (l) (c) 3. (iii) thereof, is amended.

Purpose: To require maintenance of records for secondary containment, interstitial monitoring and under dispenser containment.

Main Features: Expands maintenance of these records as part of the normal record keeping routine for owners or operators participating in the GUST Trust Fund.

Statement of Rationale Rules for Underground Storage Tank Management

On August 8, 2005, the President signed into law the Energy Policy Act of 2005, which contained within it the Underground Storage Tank Compliance Act. This law is the first statutory amendment to Subtitle I of the Resource Conservation and Recovery Act (RCRA) since its initial passage in 1984. RCRA is the basis for the federal Underground Storage Tank Program and its enfranchisement as a state-authorized program for Georgia.

The new federal law requires a number of mandatory revisions to the current EPD regulations concerning the management of USTs in Georgia. These statutory changes are being passed onto the states to implement, not through the normal regulatory framework from EPA as in the past, but through the issuance of Grant Guidelines from EPA to the States for implementation of these federal statutory mandates of the Energy Policy Act. As a matter of federal law, each state that receives federal funding under RCRA Subtitle I must comply with the underground storage tank requirements of the Energy Policy Act in order to continue to receive such funding. This compliance is demonstrated through the implementation of guidance in the Georgia regulatory framework of its UST program.

These new changes will require several revisions to the current EPD regulations concerning the management of USTs. EPA, in consultation with all states, has issued final and draft grant guidelines for implementation of the various UST provisions of the Energy Act. EPA intends to enforce compliance with the Energy Act through applying EPA's grant enforcement provisions of 40 CFR 31.43 to determine whether a state's non-compliance with the Energy Act, if any, is material and to choose an appropriate remedy.

After review of the GUST Act by the Attorney General's office, it is their opinion that the technical and administrative requirements applicable to the Georgia Underground Storage Tank Program by the Energy Act of 2005 are achievable without any amendments to the Georgia Underground Storage Tank Act. However, the Rules for Underground Storage Tank Management do require modification to incorporate the new standards imposed by the Federal law. Accordingly, the EPD has drafted appropriate rule amendments to comply with the secondary containment requirements.

These amendments are provided to comply with the federal EPA's guidelines issued pursuant to Section 1530 of the Energy Policy Act of 2005 to assure that Georgia is in compliance with the Energy Policy Act and will continue to receive federal funding under RCRA to assist in administering its UST Program. Moreover, these amendments provide additional protection for Georgia's groundwater through secondary containment and better monitoring of any leaks that might occur from new or replaced UST systems located within 1,000 feet of any community water system or potable drinking water well.