



Public Workshop - Notice to Solicit Comments on Proposed
Underground Storage Tank and Certification Program Regulations

Public Workshop Transcript

The Nevada Division of Environmental Protection (NDEP) held two Public Workshops on proposed Underground Storage Tank (UST) and Certification Program revisions to Nevada Administrative Code (NAC). The purpose of the Public Workshops was to inform the regulated community and members of the public about proposed regulatory changes and solicit comments from interested persons. The Public Workshops were video conferenced to Las Vegas from Carson City on the following dates and locations:

August 12, 2016 11:00 AM to 1:00 PM	
<u>Public Workshop Location</u>	<u>Video Conference Location</u>
Nevada State Legislative Building 401 S. Carson St. Ste 2134 Carson City, NV 89701	Grant Sawyer Building 555 E. Washington Ave. Ste 4401 Las Vegas, NV 89101

September 12, 2016 11:00 AM to 12:00 PM	
<u>Public Workshop Location</u>	<u>Video Conference Location</u>
Nevada State Legislative Building 401 S. Carson St. Ste 2134 Carson City, NV 89701	Grant Sawyer Building 555 E. Washington Ave. Ste 4412E Las Vegas, NV 89101

Attendees of the August 12th, 2016 and September 12th, 2016 Public Workshops:

NDEP Staff:

Carson City:

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

Las Vegas:

- Todd Croft, Remediation Program Supervisor Las Vegas, BCA
- Rex Heppe, Remediation Program, BCA
- Charles Enberg, Remediation Program, BCA
- Gail Dansby, Administrative Branch, Bureau of Federal Facilities (BFF)
- Ariel Halstead, Administrative Branch, BCA

Public:

Carson City:

Joseph McGinley, McGinley and Associates
Baljit Bassi, Quickstop Markets Inc.
Chip Hughes, Pilot Flying J
Briana Johnson, Washoe County Health District
Lee Perks, LA Perks Petroleum
Michael Ezell, Washoe County Health District
Peter Krueger, Nevada Petroleum Marketers Association
Brian Reed, Nevada Department of Transportation
Matt Herrick, Broadbent and Associates

Public:

Las Vegas:

Ken Blanchette, Clark County Water District
Greg Eoff, Riverside Resort and Casino
Ron Dressler, Veolia Las Vegas
Kevin Patchtinger, Veolia Las Vegas
Armando Teijeiro, Republic Services
Steve Veteto, Republic Services
Denie Rasmussen, NV Energy
John Hickman, Western Cab Company
Brian Northam, Southern Nevada Health District
Erik Anderson, Southern Nevada Health District
Chris Brochu, Newmark Grubb Knight Frank
Jim Gans, State Environmental Commission

Paraphrased Public Questions and Comments from the Public Workshop Held on August 12, 2016

A Public Workshop was held on August 12th, 2016 in Carson City, with video conference to Las Vegas. After the Workshop was called to order and the initial question and comment period passed with no response from attendees, Mr. Jonathan McRae also opened a second public comment period on any matter not included in the workshop agenda. There being no comments during the second public comment period, Mr. McRae adjourned the Workshop.

Paraphrased Public Questions and Comments from the Public Workshop Held on September 12, 2016

Public Comment -

It is understood that NDEP reviewed comments that were sent in before the Workshop. When will a response be provided by NDEP?

NDEP Reply -

Comments received in writing or from previous workshops are being compiled by NDEP and will be available for review prior to the SEC meeting in October 2016.

Public Comment -

With a federal mandate which has no funding attached, it is difficult to use State resources for the program. It is understood that the proposed legislation is not currently a program mandated by the Federal Government and as such is not mandated by the State of Nevada. A future mandate may take legislation and we are supportive of that process. We also feel that record keeping for Class C Operator Training should be improved by NDEP as a tool to reduce possible discharges and their subsequent claims. It is understood that these comments are not a part of the proposed legislation.

NRS 233B sought financial impact statements and it is understood that NDEP did not receive any. Small businesses may interpret taking time to complete an impact statement as difficult. The industry feels despite the fact that NDEP did not receive a response, there will be an impact to small business and that should be addressed by the industry rather than NDEP. The program is however progressing well in regards to the best interest of the environment and small business; particularly rural Nevada which may note a financial impact as previously seen in 1989 when tank upgrade regulations went in to effect. A loan or grant program to assist small business owner/operators may be an option as well. Other States have established a fund that small business owner/operators borrow from in order to complete necessary upgrades and requirements while remaining in operation.

NDEP Reply -

NDEP has noted these comments.

Public Comment -

Do sumps used for secondary containment or spill containment need to be tested?

NDEP Reply -

Regarding containment sumps for interstitial monitoring of piping, if the containment sump is not used for testing or monitoring piping it is only a sump.

Public Comment -

Correct. If there is a secondary containment sump for spill prevention equipment, does that need to be tested as well? Specifically a regular containment sump on a tank with the vapor and spill bucket inside.

NDEP Reply -

When referring to the sump from a spill bucket the regulations make a distinction between spill buckets for spill prevention equipment used in double wall systems, such as a regular containment sump.

Public Comment -

Are secondary containment systems for the spill bucket to be tested? It is noted that secondary containment in spill buckets does not have to be tested. Would that be exempt?

NDEP Reply -

The interstice will need to be tested or looked at. The interstice should monitor every 30 days to verify it is dry.

Public Comment -

Will a sensor in the interstice or inside the sump be required?

NDEP Reply -

Anything that would be monitored every 30 days during the walk through, which will be one of the additional requirements in proposed legislation. The federal regulation noted if a system is monitored every 30 days, they will be exempt from the three year periodic testing. There will be an initial test at install and then every 30 days a walkthrough inspection will be performed and a verifiable record of that inspection must also be maintained.

Public Comment -

How is system integrity verified if visually inspecting?

NDEP Reply -

The federal regulation assumes at install the sump or spill bucket was tested for tightness including penetrations.

Public Comment -

Has the decision been made if water used to test spill buckets and containments systems will be treated as hazardous waste?

NDEP Reply -

NDEP will make that determination. At present BCA is not aware of a decision by NDEP. BCA may not make that determination; this may end up as a Bureau of Waste Management (BWM) discussion.

Public Comment -

Is it currently unknown that some of these testing methods may lead to the creation of by-product and then be deemed hazardous waste? Is NDEP stating that determination hasn't been made yet?

NDEP Reply -

NDEP has contacted other states and it has been determined that they follow 40 CFR 261.4(b)(10), which does not classify the water as a hazardous waste. Below is the 40 CFR 261.4(b)(10) regulation.

40 CFR 261.4(b) Solid wastes which are not hazardous wastes.

The following solid wastes are not hazardous wastes:

(10) Petroleum –contaminated media and debris that fail the test for the Toxicity Characteristic of 261.24 (Hazardous Waste Codes D018 through D043 only) and are subject to the corrective action regulations under part 280 of this chapter. Accordingly, water used in the testing of the containment sumps and spill buckets are not deemed hazardous waste.

Public Comment -

Is the alternative testing method noted in draft regulations going before the SEC required, or currently in place? If not please explain. The industry would not want to be confined by the EPI 1200 test or its equivalent.

NDEP Reply -

As per 40 CFR 280.35: Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of over-fill prevention equipment.

(ii) The spill prevention equipment and contamination sumps used for interstitial monitoring of piping are tested at least once every three years to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following:

- (A) Requirements developed by the manufacturer
(Note: Owners and operators may use this option only if the manufacturer has developed requirements);
- (B) Code of practice developed by a nationally recognized association or independent testing laboratory; or
- (C) Requirements determined by the implementing agency to be no less protective of human health and the environment than the requirements listed in paragraphs (a)(1)(ii)(A) and (B) of this section.

This allows NDEP to approve another test method without putting a specific alternative test method in the regulations. If there is another alternative test method that is deemed protective, it will need only NDEP's approval to be valid.

After the question and comment period, 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 the Public Workshop.