Welcome to the 2018 Tribal Land & Environmental Forum

Nihimá Náhásdzáán
Dinisín dóó Báá Áholyá
Respect and Care for Mother Earth
NNEPA Storage Tank Program

Navajo Nation EPA

Storage Tank Program:

Warren J. Roan

Tanya Yazzie

Photo Credit: NNEPA STP
Navajo Nation Council Resolution
CAP-47-95

In the Navajo Way, the Earth is our Mother, the mountains part of her sacred body, the water courses her veins and arteries. When the Earth is injured, the resultant instability, imbalance and disharmony bring illness to life on Earth including human kind.”
Mission Statement

In light of Dine’ values and to accomplish the Navajo Nation EPA mission statement, the Waste Regulatory Compliance Department will ensure that abandoned facilities and facilities that release, generate, transport, treat, store, and dispose of hazardous waste and/or store hazardous materials comply with federal and Navajo Nation laws and regulations.
NNEPA Organizational Chart

Executive Director

Administration
- Office of Environmental Review
- General Assistance Program (GAP)

Air Quality Department
- Air Quality Program
- Operating Permit Program

Air & Toxic Department
- Pesticide Program
- Radon Program

Criminal Enforcement Department
Environmental Law Enforcement

Surface & Groundwater Protection Department
- Water Quality/NPDES Program (National Pollutant Discharge Elimination Systems)
- Public Water Systems Supervision Program
- Underground Injection Control Program

Waste Regulatory Compliance Department
- Underground Storage Tank Program
- Leaking Underground Storage Tank Program
- Superfund Program
- Resource Conservation & Recovery Program
Navajo Nation Impacted Soil & Groundwater

Created by: Henry Haven Jr., NNEPA/LSTP

Map provided by Henry Haven Jr., NNEPA/LSTP
Quick Tank Facts

**UST**
- Registered Facilities: 101
- # USTs: 279
- 38 Owners
- # of Inspections per year: 45 to 51
- Removed: ~600
- Installed: ~30
- Red Tag: 4
- Compliance Order: 2
- Funding: Federal and Special Revenue

**AST**
- Registered Facilities: 30
- # ASTs: 60
- 16 Owners
- # of Inspections per year: 20
- Removed: 4
- Installed: 13
- Red Tag: 0
- Compliance Order: 0
- Funding: Special Revenue
NN Storage Tank Act

• NN UST Act signed into law on October 29, 1998
• To coincide with the USEPA December 22, 1998 mandate requirements for release detection and release prevention
• NN Storage Tank Act amended February 13, 2012
  – Delivery Prohibition Regulations
  – Soil and Water Clean Up Standards
  – Regulate aboveground storage tanks (ASTs)
  – 2018 NNEPA Storage Tank Penalty Regulations
History of Storage Tank Program

Prior to 2004 – Joint inspection with USEPA

- Notice of Inspection (NOI) were issued
- Field Citation (FC) were not issued
- Inspections appeared to be technical assistance
- Lack of enforcement
After 2004- Federal field citation SOP Agreement established

- Notice of Inspection (NOI) and Field Citation (FC) issued to non-compliant UST facilities

- Tribal Role and Federal Role
  - Navajo Lead
  - USEPA Assist

- Unique Field Citation Form established for Region 9 and Navajo EPA

- Penalty Fines captured attention of the facilities
  - Violations identified during inspections
  - Newspaper publications

- NNEPA Penalty Regulations passed in February 2018.
Yearly UST Compliance Inspection Percentage

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Navajo Nation Notice of Inspection Form

The Navajo Nation Environmental Protection Agency ("Navajo Nation EPA") is responsible for ensuring compliance with the Navajo Nation Underground and Aboveground Storage Tank Act of 2012 ("NNSTA"). 4 N.N.C. §§ 1501-1577, by all underground storage tanks ("USTs") and aboveground storage tanks ("ASTs") on or off the Navajo Nation.

Violations observed: Yes (specify below)  No  Check one:  □ AST  □ UST

Pursuant to the NNSTA, a duly authorized Inspector/employee of Navajo Nation EPA inspected your facility on / / . During the inspection, violations of the NNSTA were observed, as listed below. (As an interim measure, the NNSTA incorporates by reference the federal regulations for USTs, see NNSTA § 1542(a), and the New Mexico regulations for ASTs, see NNSTA § 1542(b)). Navajo Nation EPA wishes to work cooperatively with you as the owner or operator of this facility to correct the violations and requests that you submit documentation demonstrating compliance by / / to the Navajo Nation Storage Tank Program, Navajo Nation EPA, P.O. Box 3089, Window Rock, AZ 86515.

Violations:  Correction Required:

Violations:  Correction Required:

Violations:  Correction Required:

Violations:  Correction Required:

Comments:  

Personnel in the Navajo Nation Storage Tank Program will review the records of this inspection, including the documentation you submit. A final determination of your facility’s compliance with the NNSTA will be made on the basis of this review, which may reveal additional violations that need to be corrected.

Date:  

Time In:  

Time Out:  

Facility Name:  

Address:  

Facility ID No:  

Facility Representative:  

City:  

State:  

Zip Code:  

Phone #:  

Receipt of this Notice of Inspection is acknowledged.

Signature of Lead Inspector  Phone #:  

Signature of Facility Representative  Phone #:  

Revised 12/07/15

Facility Copy
Compliance Order Number: FC-(NAV###)-(Date)

Sign and date the FC as the owner or operator for acknowledgement of violations given.

Sign and date once you’ve corrected all violations.

Final Approval by Navajo Nation EPA

Total Amount of Violation given
UST Inspection Time
Owner/Operator Training

- O & O training provided on a quarterly basis
- Cover Federal UST Requirements
- Cover Navajo USTs & ASTs Requirements
- Inform class Energy Policy Act Requirements
- Provide a mock inspection at operating facility
- Equivalent to Class A, B & C Operator training
- Reward Owners & Operators with certificate
- Update on Federal Regulations
Owner/Operator Training
Operation and Maintenance

• Release Detection and Release Prevention requirements
• Overfill and Spill Prevention
• Corrosion Protection
  – Impressed Current
  – Galvanic Protection
• Record Keeping Requirements
• Financial Responsibility
• Monthly Walkthrough
• Emphasis on spill bucket and containment sump
Provide Compliance Training
Notification Requirements
For
Underground Storage Tanks
Tank Installation Requirements

• Must give **30 Day** advanced written notification to NNEPA, per § 1535 & §1542(C)(7) of the NNSTA

• Facility proposal plans and site map must be submitted to NNEPA for review and comment

• Secondary containment requirements apply on entire system, per the USEPA Energy Policy Act of 2005 and § 1541(C)(1) of the NNSTA

• Inspection must be coordinated with NNEPA

• Oversight Fees are applied pursuant to NNSTA
Facility Modifications

• Must give **30 day advanced written notification** to NNEPA, per §1542(C)(7) of the NNSTA
• Modifications include: replacement of tanks, product lines and dispensers.
• Also includes: Upgrade of any sump area (tank top or underneath the dispenser)
• Soil samples may be required if no containment sump areas exist and open to environment
• Oversight fees are applied pursuant to NNSTA
Fiberglass UST system
Temporary Closure

- Notify NNEPA by letter **30 Days** prior
- Remove fluid from all tanks to **less than one 1”**
  - If fluid is more than 1” – Release detection requirements apply on all tanks
- Maintain Financial Responsibility Insurance
- Corrosion protection must be maintained.
- Vent lines must be open, not capped.
- **Facilities are still subject to annual UST inspections during temporary closure.**
- **Annual Tank Fees are still required.**
Tank Closure Requirements

• Must give **30 Day** advanced written notification to NNEPA, per § 1535 & §1542(C)(7) of the NNSTA
• NNEPA will provide Tank Removal Guide
• Must submit SOW/schedule of tank removal
• Must submit Site Health and Safety Plan
• Oversight must be coordinated with NNEPA
• Must submit Tank Closure report
• Oversight fees are applied pursuant to NNSTA
Navajo Nation Storage Tank Act
Amended on February 13, 2012

- § 1571- Tank Registration Fees at $100 per tank (one time fee).
- § 1572- Annual Tank Fees of $150.00 per tank.
- § 1573- UST Tariff of one (1) cent per gallon
- § 1574- Storage Tank Removal, Installation and Clean –Up Monitoring Fees at $150 per day per owner.
Aboveground Storage Tanks on the Navajo Nation

Navajo Nation Storage Tank Act &
40 CFR Part 112

Photo Credits: NNEPA / STP
Purpose

• To ensure owner operators of ASTs comply with the NNSTA to prevent and detect spills
• USEPA does not regulate ASTs
• Some Owner/Operators installed AST to avoid regulations
• NNEPA needed to ensure the soil and ground water resources are protected
• Complicated situations resulted from AST spills in terms of liability
Definition for Aboveground Storage Tank per NNSTA 2012 § 1502 (B)

- Single tank or combination of tanks, including any pipes connected to the tanks, whether above or below ground, that is used to contain regulated substances and the volume of which is more than 90% above the ground.
The Term does not include:

- Farm, ranch, or residential tank capacity 1,100 gal or less used for motor oil for noncommercial purposes
  - Owner and/or Operator of such tank(s) shall comply with the leak/release REPORTING requirements of §1544
  - Such tanks installed after effective date of the NNSTA 2012 shall comply with best available technology for preventing leaks and releases
  - Owner and/or Operator shall be subject to the corrective action requirements of the NNSTA and Navajo Nation Clean Up Standards in the event of a release
The Term does not include (cont):
Pipeline
Surface impoundment, pit, pond, or lagoon
Storm water or wastewater collection system
Flow-through process tank –

A tank that forms an integral part of a production through which there is a steady, recurring flow of materials during operations. Flow through tanks do not include the use of storage of materials prior to production and the storage of finished products.
Liquid trap, tank, or associated gathering lines or other storage methods or devices related to oil or gas exploration, production, transportation, refining, processing or storage etc. Except fuel tanks used to service vehicles at facility.
Tank owned or used by a refinery, natural gas processing plant or pipeline company in regular of their refining.
Emergency Generator System
Tank located on site at either the Four Corners Power Plant or the Navajo Generating Station
Pipes connected to any tank previously described in Paragraphs 1-9 of this Subsection
NNSTA Requirements

• § 1541 (C) Tank and Piping Secondary Containment

• Newly installed storage tank systems shall be secondarily contained

• Under-Dispenser Spill Containment (UDSC)

• Secondarily Contained means, with respect to:
  – AST: berm to capture spillage from overfill must be impervious and designed to contain 110% of the capacity of the tank (regardless if tank is has dual wall)

• ASTs shall not be installed in underground vaults
SITE PLANNING:
Remote Dispensing System

- Pressurized product system with all required components shown.
- Annual line tightness test required.
- Monthly visual inspection records of the tank, containment area, and all sumps is required.
- Steel piping must be cathodically protected.
NNTSA § 1542 Interim (temporary) Storage Tank Requirements

• Until the Director promulgates regulations authorized under § 1541
• AST’s shall comply with the following
  – For New: Material of construction must be steel, Release detection and prevention devices
  – New and existing: shall comply with New Mexico Administrative Code §§ 20.5.4.16 - 20.5.4.19 and 20.5.4.23 – 20.5.4.33
  – For All:
    • Manufacture instructions on operation, maintenance, repairs
    • National Fire Protection Association Codes 30 to 30A
    • 40 CFR Part 112, applicable federal laws, regulations and design/operational standards
    • Navajo Nation Oil Pollution Prevention Regulations
SPCC Requirements, must

- Be kept onsite
- Be Certified by a Registered Professional Engineer (PE)
- Have full Management approval
- Conform with all SPCC requirements in 40 CFR Part 112
- Discuss spill history
- Discuss spill prediction (i.e. direction flow)
- Be reviewed every three years by management
- Be amended when you change the facility and recertified by a PE.
- Facility Response Plan (FRP)
Enforcement

• Delivery Prohibition Regulations
  – Red Tag Non-Compliant Storage Tanks
• Penalty Regulations of 2018
• General Enforcement Authority
  – Compliance Orders on Requirements, Emergency, and Enforcement
• Civil Judicial Enforcement
Conclusions

• Navajo Nation uses its sovereignty to govern storage tanks:
  – USTs in 1998
  – ASTs in 2012

• NNSTP provides outreach to owners/operators on storage tank operation and maintenance

• Conducts periodic compliance inspections at 131 facilities
Thank You!
Safe Travels