

UST Enforcement FAQ

What is the Enforcement Program Mission? - To achieve and maintain compliance of regulations in an efficient and expeditious manner, through the recognition of specific activities for which enforcement actions are warranted and through the implementation of a proactive program to address regulatory violations.

Where can I find Enforcement Information? - For questions regarding the UST sections enforcement program, please contact the enforcement coordinator at (919) 733-1321, or by fax at (919) 733-9413. You may email questions to Jan Manthey at Jan.Manthey@ncdenr.gov

What is a Notice of Violation (NOV)? - A Notice of Violation (NOV) is a letter sent to a responsible party (individual or company) giving notice of noncompliance with environmental law(s). The letter is designed to notify the person of the specific violation and associated regulatory cite. In addition, the NOV describes the requirements that the person or party must take to correct the violation or must take as a result of the violation. Generally, the NOV indicates the responsible party must complete the corrective actions and notify the regulatory agency in a certain period of time.

What is a Notice of Regulatory Requirement (NORR)? - A Notice of Regulatory Requirement (NORR) is a letter sent to a responsible party indicating the occurrence of a petroleum product(s) release into the environment. The NORR was developed in 1991 as a tool for educating the regulated community about new environmental laws associated with Underground Storage Tanks (UST's). The NORR is still used by the UST section to notify a responsible party of a release and the necessary corrective actions or release responses. Although the NORR is an educational tool, certain actions within the letter must be complied with by the responsible party.

What are the Consequences of Regulatory Violations? - The authority to initiate enforcement actions is provided for by North Carolina General Statutes. These statutes describe the type of actions and establish the protocols upon which policies and procedures may be based. The statutes allow three (3) remedies of enforcement to prompt or maintain compliance with environmental regulations. These remedies are Civil Penalties, Injunctive Relief, and Criminal Penalties. The remedy most commonly used is the assessment of civil penalties. Additional information may be available under facts and figures.

What are Civil Penalties? - Civil Penalties are fines assessed against a responsible party for violation(s) of environmental regulations. The assessment of a penalty is based on the specifics of each civil penalty case. The law requires consideration of specific assessment factors by the assessor for each case. Once a Civil Penalty has been assessed, the responsible party has three options. These options are explained in detail in an assessment letter received by the responsible party. One of the three must be selected within thirty (30) days of receipt of the assessment letter. The options are discussed below:

Option #1: Pay the penalty. The selection of this option simply entails the submittal of a check or money order made out to the Department of Environmental and Natural Resources.

Option # 2: Request remission of the penalty. A request for remission is an opportunity for the responsible party to submit information explaining mitigating circumstances for review. At this time, the amount of the penalty may be reconsidered based upon the remission factors. A request for remission is limited to consideration of the amount of the penalty and is not the proper procedure for contesting the accuracy of any of the statements contained in the assessment letter. Because a remission request forecloses the option of an administrative hearing, such as request must be accompanied by a waiver of the right to an administrative hearing and stipulation that there are no factual or legal issues in dispute. The waiver/stipulation form is enclosed with the assessment letter for signature and completion.

Option #3: Petition for an Administrative Hearing. This choice results in an opportunity for the responsible party to contest any statement(s) in the assessment letter. The contested case is heard by an impartial third party (hearing officer). This request must be in the form of a written petition and filed with the Office of Administrative Hearings.

What is Injunctive Relief? - Injunctive relief is a court order to discontinue or prevent an existing or potential violation. This court order is often used if a responsible party demonstrates consistent non-compliance with regulations or if an imminent danger exists to health or to the environment.

What is a Criminal Penalty? - A criminal penalty, or investigation leading to criminal prosecution, is a remedy of enforcement. Criminal penalties may be used if a violator willfully, knowingly, or negligently fails to comply with environmental regulation(s).

Where can I find Facts and Figures? - This field of information is currently under construction and will be available soon.

Where does Revenue from Penalties go? - At this time penalties collected are deposited into an account for later distribution to the North Carolina General Fund. Procedures are being developed to allow for penalty revenues to be allocated to the counties for disbursement into educational funds. Investigative costs are retained by the Division of Waste Management.

Further information can be obtained by contacting your local Regional Office or by contacting the UST Central Office

NCDENR

Division of Waste Management

UST Section

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