

INSTRUCTIONS FOR PREPARING A '**NOTICE OF RESIDUAL PETROLEUM**' REFERENCING ALTERNATE LAND USE RESTRICTIONS **(FOR EXISTING RESIDENCES ONLY)** FOR FILING

The following is a list of instructions to assist in the preparation and filing of a *Notice of Residual Petroleum*'.

1. The Notice shall be prepared in accordance with the format provided in these instructions and shall include reference to the appropriate alternate land use restrictions. **(REWORDING OF THE NOTICE IS NOT RECOMMENDED AND WILL SUBSTANTIALLY DELAY APPROVAL.)**
2. The Notice shall include a description that would be sufficient as a description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter.
3. The Notice shall also identify the location (legal description) of any residual petroleum on other real property on which contamination is known to exist at the time the Notice is prepared and that is a result of the release.
4. The Notice shall reference any restrictions on the current or future use of the real property that are imposed by the Secretary to protect public health, the environment, or users of the property.
5. **(IF REQUIRED BY DEPARTMENT OF ENVIRONMENTAL QUALITY.)** If the contamination is located on more than one parcel or tract of land, the Department may require that the owner, operator, or other person responsible for the discharge or release prepare a composite map or plat that shows all parcels or tracts.

If the contamination is located on one parcel or tract of land, the owner, operator, or other person responsible for the discharge or release may prepare a map or plat that delineates the contamination but is not required to do so.

When the Department has approved a map or plat, it shall be recorded in the office of the register of deeds and shall be incorporated into the Notice by reference.

Any map or plat shall be prepared and certified by a professional land surveyor, shall meet the requirements of G.S. 47-30 and any requirements of the county Register of Deeds, and shall be submitted to the Department for approval. The plat shall include: **(ALL CONTENTS OF THE PLAT MUST BE DRAWN IN INDELIBLE INK.)**

- a. Property lines, north arrow, scale, bearings and distances as appearing on the deed;
- b. With respect to permanently surveyed benchmarks, location and dimensions of areas of the property where contamination is known to exist in
 - ≡ groundwater at a concentration exceeding the standard or interim standard established in 15A NCAC 2L .0202 and/or
 - ≡ soil at a concentration exceeding the residential maximum soil contaminant concentration established in 15A NCAC 2L .0411.
- c. The printed name(s) and title(s) and properly notarized signature(s) of individual(s) with authority to legally bind the responsible party(ies) (i.e., responsible party(ies), an individual with power of attorney for the responsible party(ies), officer of a corporation, etc.) **(PRINTED TEXT, SIGNATURES, AND NOTARY SEALS, AS WITH ALL MARKINGS ON THE PLAT, MUST BE MADE IN INDELIBLE INK);**

- d. The following language: "The areas of contamination depicted upon the map are approximations derived from the best available information at the time of filing.";
- e. The following language, for use by the Department, positioned in the upper left corner of the plat:

"Approved for the purposes of N.C.G.S. 143B-279.9 and 143B-279.11

(signature of Regional Supervisor), Regional Supervisor

(printed name of Regional Supervisor) Regional Office

 UST Section
 Division of Waste Management
 Department of Environmental Quality

NORTH CAROLINA
 _____ COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____
(printed full name of Regional Supervisor)

Date: _____
(signature of Notary Public) _____

(Official Seal) _____
(printed or typed name of Notary Public)
 Notary Public

My commission expires: _____

- f. Surveyor's certification and seal (using a permanent ink stamp).
- 6. The signed and notarized Notice (with all indicated attachments) shall be sent to the appropriate UST Section Regional Office.
- 7. After the Department approves, notarizes and returns the Notice, the responsible party shall, within thirty (30) days of its return:
 - a. File approved Notice in the County Register of Deeds' office of the county or counties in which the site is located; and
 - b. Send to the appropriate UST Section Regional Office, a certified copy of the Notice affixed with the seal of the Register of Deeds and reflecting the book(s) and page number(s) where recorded and a copy of the page(s) in the grantor index where the Notice is referenced.

NOTICE OF RESIDUAL PETROLEUM

_____, _____ County, North Carolina
(site name)

The property that is the subject of this Notice (hereinafter referred to as the "Site") contains residual petroleum and is an Underground Storage Tank (UST) incident under North Carolina's Statutes and Regulations, which consist of N.C.G.S. 143-215.94 and regulations adopted thereunder. This Notice is part of a remedial action for the Site that has been approved by the Secretary (or his/her delegate) of the North Carolina Department of Environmental Quality (or its successor in function), as authorized by N.C.G.S. Section 143B-279.9 and 143B-279.11. The North Carolina Department of Environmental Quality shall hereinafter be referred to as "DEQ".

NOTICE

Petroleum product was released and/or discharged at the Site. **Petroleum constituents remain on the site, but are not a danger to public health and the environment, provided that the restrictions described herein, and any other measures required by DEQ pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11, are strictly complied with.** This "Notice of Residual Petroleum" is composed of a description of the property, the location of the residual petroleum, and the land use restrictions on the Site. The Notice has been approved and notarized by DEQ pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11 and has/shall be recorded at the _____ Register of Deeds' office Book ____, Page ____.
(name of county)

Any map or plat required by DEQ has been/shall be recorded at the _____ Register of Deeds' office Book ____, Page ____, and has been/shall be incorporated into the Notice by this reference.
(name of county)

Source Property

_____ of _____ is the owner in fee
(owner's name) (city & state of homeowner)
simple of all or a portion of the Site, which is located in the County of _____, State of North Carolina, and is known and legally described as:

(Insert Real Property Description Here for Source Property)

Additional Affected Property Also Subject to Restrictions

_____ of _____ is the owner in fee simple of a portion of
(owner's name) (city & state of owner)
the Site, which is located in the County of _____, State of North Carolina. Petroleum
contamination is located on this property at the time this Notice is approved. This property was also
owned or controlled by the underground storage tank owner or operator or another party responsible for
the petroleum discharge or release at the time the discharge or release was discovered or reported, or at
any time thereafter. This property is known and legally described as:

*(Insert Real Property Description Here for Additional Properties Owned or Controlled by Any Owner or
Operator of the Underground Storage Tank or Other Responsible Party, if Applicable)*

Additional Affected Property Not Subject to Restrictions

Additionally residual petroleum is also located on the following property. The following
property is not subject to land use restrictions pursuant to N.C.G.S. Section 143B-279.9(b). The
following property is known and legally described as:

*(Insert Legal Description of Other Real Property Affected by Residual Petroleum Not Owned or
Controlled by Any Owner or Operator of the Underground Storage Tank or Other Responsible Party, if
Applicable)*

For protection of public health and the environment, the following land use restrictions required
by N.C.G.S. Section 143B-279.9(b) shall apply to all of the above-described real property. These
restrictions shall continue in effect as long as residual petroleum remains on the site in excess of
unrestricted use standards and cannot be amended or cancelled unless and until the _____ County
Register of Deed receives and records the written concurrence of the Secretary (or his/her delegate) of

DEQ (or its successor in function).

PERPETUAL LAND USE RESTRICTIONS

[Restrictions apply to activities on, over, or under the land. Choose one or more of the following as appropriate.]

Soil: *Alternate 1) Soil containing residual petroleum, above applicable regulatory standard(s), remains on the site at/within/etc. (Description of **specific** location on the site of remaining petroleum contaminated soil). No soil shall be excavated or disturbed, within ___feet of (Description of **specific** location on the site of remaining petroleum contaminated soil), except to remediate the soil in accordance with all applicable state and federal statutes, regulations and guidelines.*

Alternate 2) Soil containing residual petroleum above applicable regulatory standard(s) remains on the site in the area identified in Figure 1, Attachment A (Refer to extent of contamination as diagrammed in an existing report and attach copy of that figure(s)). No soil shall be excavated or disturbed within 3 feet of the area identified in Figure 1, Attachment A except to remediate the soil in accordance with all applicable state and federal statutes, regulations and guidelines.

Groundwater: *Groundwater from the site is prohibited from use as a water supply. Water supply wells of any kind shall not be installed or operated on the site.*

ENFORCEMENT

The above land use restriction(s) shall be enforced by any owner, operator, or other party responsible for the Site. The above land use restriction(s) may also be enforced by DEQ through any of the remedies provided by law or by means of a civil action, and may also be enforced by any unit of local government having jurisdiction over any part of the Site. Any attempt to cancel this Notice without the approval of DEQ (or its successor in function) shall be subject to enforcement by DEQ to the full extent of the law. Failure by any party required or authorized to enforce any of the above restriction(s) shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

IN WITNESS WHEREOF, _____ has caused this Notice to be executed pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11, this _____ day of _____, 20__.

(name of responsible party if agent is signing)

By: _____
(signature of responsible party, attorney or other agent if there is one)

(title of agent for responsible party if there is one)

Signatory's name typed or printed: _____

(Note to be deleted on final document: Preparer of document must assure that the correct acknowledgement is used and complies with changes effective October 1, 2006)

Choice One: Instrument signed by one person

NORTH CAROLINA
_____ COUNTY
(Name of county in which acknowledgment was taken)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____

Date: _____

(Official Seal)

(signature of Notary Public)

(printed or typed name of Notary Public)

Notary Public

My commission

expires: _____

Choice Two: Acknowledge by attorney in fact

NORTH CAROLINA
_____ COUNTY
(Name of county in which acknowledgment was taken)

I, _____, a Notary Public for said County and State, do hereby certify that _____, attorney in fact for _____, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of the said _____, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of _____ in the County of _____, State of _____, on the _____ day of _____, 20__ and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney.

I do further certify that the said _____ acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said _____.

WITNESS my hand and official seal, this the _____ day of _____, 20__.

(Official Seal)

(signature of Notary Public)

(printed or typed name of Notary Public)

Notary Public

My commission

expires: _____

Choice Three: Conveying security interest in personal property of a corporation

NORTH CAROLINA
_____ COUNTY
(Name of county in which acknowledgment was taken)

I, _____, a Notary Public for said County and State, do hereby certify that _____ personally came before me this day and acknowledged that he is of _____ and acknowledged, on behalf of _____, the grantor the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the _____ day of _____, 20__.

(Official Seal)

(signature of Notary Public)

(printed or typed name of Notary Public)

Notary Public

My commission

expires: _____

Approved for the purposes of N.C.G.S. 143B-279.11

(signature of Regional Supervisor)

_____, Regional Supervisor

(printed name of Regional Supervisor)

_____ Regional Office

UST Section
Division of Waste Management
Department of Environmental Quality

NORTH CAROLINA
_____ COUNTY

(Name of county in which acknowledgment was taken)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____ *(full printed name of Regional Supervisor)*

Date: _____

(Official Seal)

(signature of Notary Public)

(printed or typed name of Notary Public)

Notary Public

My commission

expires: _____