

UST2004  
INSTRUCTIONS FOR PREPARING A '**NOTICE OF RESIDUAL PETROLEUM**' REFERENCING  
LAND USE RESTRICTIONS 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 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 shows the parcel but is not required to do so. 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. 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. **(ALL CONTENTS OF THE PLAT MUST BE DRAWN IN INDELIBLE INK.)** The plat shall include:
  - 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:

<p>"Approved for the purposes of N.C.G.S. 143B-279.9 and 143B-279.11</p> <p>_____  <i>(signature of Regional Supervisor)</i>, Regional Supervisor</p> <p>_____  <i>(printed name of Regional Supervisor)</i></p> <p>_____  <i>(name of Region)</i> Regional Office</p> <p>UST Section          Division of Waste Management          Department of Environment Quality</p> <p>NORTH CAROLINA          _____ COUNTY</p> <p>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: _____  <i>(printed full name of Regional Supervisor).</i></p> <p>Date: _____</p> <p>(Official Seal) _____  <i>(signature of Notary Public)</i></p> <p>_____  <i>(printed or typed name of Notary Public)</i>          Notary Public</p> <p>My commission expires: _____</p>	
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- f. Surveyor's certification and seal (using a permanent ink stamp).
6. The signed and notarized Notice 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 Environment 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 Environment 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

(name of county)

Book \_\_\_\_, Page \_\_\_\_.

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)*

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).

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)*

**PERPETUAL LAND USE RESTRICTIONS**

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

*Soil: The Site shall be used for industrial/commercial use only. Industrial/commercial use means a use where exposure to soil contamination is limited in time and does not involve exposure to children or other sensitive populations such as the elderly or sick. The real property shall not be developed or utilized for residential purposes including but not limited to: primary or secondary residences (permanent or temporary), schools, daycare centers, nursing homes, playgrounds, parks, recreation areas and/or picnic areas.*

*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 personally appeared before me this day, 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 Environment 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: \_\_\_\_\_