

**Navajo Nation EPA Storage Tank
Program Program Guidance No. 3
ASTs at Construction Sites**

I. Introduction

The Navajo Nation Underground and Aboveground Storage Tank Act (“NNSTA”), 4 N.N.C. §§ 1501-1577, defines an “Aboveground Storage Tank (AST)” for purposes of applying the statute. See 4 N.N.C. § 1502(B). This program guidance clarifies that the NNSTA applies to ASTs that are temporarily placed at construction sites within the Navajo Nation.

II. Applicability of the NNSTA to ASTs at Construction Sites

The NNSTA applies to ASTs placed at any construction site within the Navajo Nation, including ASTs that are intended to be temporary. The definition of AST in 4 N.N.C. § 1502(B) contains exemptions for certain types of tanks, but there is no exemption either for ASTs used at construction sites or for temporary ASTs.

A fuel distributor or contractor may not avoid the NNSTA requirements by utilizing a bulk delivery truck or trailer at a construction site as an AST, such as by parking the vehicle or detached trailer and making bulk fuel deliveries to it for dispensing into drive-up vehicles, including highway-licensed or off-road non-licensed vehicles. Similarly, a fuel distributor or contractor may not avoid the NNSTA requirements by utilizing a bulk delivery truck or trailer for this purpose by dropping the truck or trailer with fuel at a construction site, allowing drive-up fuel dispensing, picking up the truck or trailer when empty, transporting the truck or trailer to refill it, and then dropping the truck or trailer at the construction site to continue the cycle.

If placement of the AST at the construction site is anticipated to exceed six months, the owner or operator is advised to install the AST in a more permanent fashion.

III. Operating Guidelines for Aboveground Fuel Tanks at Construction Sites

Owners and operators of ASTs placed at construction sites shall file the Tank Information Forms required by 4 N.N.C. §§ 1531 and 1535.

In order to comply with the Interim Storage Tank Requirements found at 4 N.N.C. § 1542(B), the following operating guidelines apply to ASTs placed at any construction site within the Navajo Nation:

1. The AST should be located within a secondary containment area, for example earthen berms covered from end to end by a thick mil plastic. Concrete or steel may also be used to provide secondary containment.
2. The AST should be secured to prevent movement on the containment surface or be mounted on metal skids, *i.e.*, not on an elevated stilt rack.

3. The project manager or contractor should contact a representative of the Navajo Nation Storage Tank Program for an inspection of the AST to check for evidence of soil contamination both prior to the first deposit of a regulated substance and when the AST is removed from the construction site.