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Nashville, TN 37243
Phone: 615.741.2650
Fax: 615.741.5133
Email: register.information@tn.gov

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Sequence Number: 01-16-10
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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	Underground Storage Tanks
Contact Person:	Rhonda Key
Address:	4 th Floor, L & C Tower 401 Church Street Nashville, TN 37243-1541
Phone:	615-532-0972
Email:	Rhonda.Key@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	12 th Floor, L&C Tower 401 Church Street Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	beverly.evans@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Auditorium J. R. Fleming Environmental Training Center		
Address 2:	2022 Blanton Drive		
City:	Murfreesboro, Tennessee		
Zip:	37129		
Hearing Date :	03/31/10		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CDT	<input type="checkbox"/> EDT

Address 1:	Room A UT Agricultural Center		
Address 2:	605 Airways Blvd.		
City:	Jackson, Tennessee		
Zip:	38301		
Hearing Date :	04/14/10		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CDT	<input type="checkbox"/> EDT

Address 1:	Room 106 O'Brian Building Roane State Community College		
Address 2:	276 Patton Lane		
City:	Harriman, Tennessee		

Zip:	37748		
Hearing Date :	04/21/10		
Hearing Time:	1:00 p.m.	<input type="checkbox"/> CDT	<input checked="" type="checkbox"/> EDT

Additional Hearing Information:

Please Note: The Division of Underground Storage Tanks will hold a Question and Answer/Demonstration from 10:00 a.m. to 12:00 p.m. before each of the formal hearings. For more information call Ms. Rhonda Key at (615) 532-0972.

The Division prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

Memphis Environmental Field Office
8383 Wolf Lake Drive
Memphis, TN 38115-1520
(901) 368-7939/ 1-888-891-8332

Cookeville Environmental Field Office
1221 South Willow Avenue
Cookeville, TN 38506
(931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office
1625 Hollywood Drive
Jackson, TN 38305
(731) 512-1300/ 1-888-891-8332

Chattanooga Environmental Field Office
Suite 550- State Office Building
540 McCallie Avenue
Chattanooga, TN 37402-2013
(423) 634-5745/ 1-888-891-8332

Columbia Environmental Field Office
1421 Hampshire Pike
Columbia, TN 38401
(931) 380-3371/ 1-888-891-8332

Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921-5602
(865)594-6035/ 1-888-891-8332

Nashville Environmental Field Office
711 R. S. Gass Blvd.
Nashville, TN 37243-1550
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/1-888-891-8332

The "Draft" rules may also be accessed for review using <http://state.tn.us/environment/ust/act&rules.shtml>.

Draft copies may also be available for review at the Nashville Central Office (see address below).

Tennessee Department of Environment and Conservation
Division of Underground Storage Tanks
4th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243-1541
(615) 532-0945

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Division of Underground Storage Tanks; Tennessee Department of Environment and Conservation; Attention: Mr. Lamar Bradley; 4th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1541; telephone 615-532-0952 or FAX 615-532-9759. However, such written comments must be received by the Division by 4:30 PM CST, April 30, 2010 in order to assure consideration. For further information, please contact Ms. Rhonda Key at the above address, by telephone at (615) 532-0972 or by e-mail at Rhonda.Key@tn.gov.

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-01-15	Underground Storage Tank Program
Rule Number	Rule Title
1200-01-15-.01	Program Scope, Definitions and Proprietary Information
1200-01-15-.03	Notification, Reporting and Record Keeping
1200-01-15-.16	Certified Operator Program

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-01-15
Underground Storage Tank Program

Amendments

The Table of Contents for Chapter 1200-01-15 Underground Storage Tank Program is amended by adding a new rule and title so that the Table of Contents shall include 1200-01-15-.16 Certified Operator Program in the proper order.

Paragraph (4) Definitions of rule 1200-01-15-.01 Program Scope, Definitions and Proprietary Information is amended by adding new definitions for the terms "Class A Operator", "Class B Operator", "Class C Operator", "Facility is operating", "Operator Training", "Retraining", and "UST facility" and inserted in alphabetical order, which shall read as follows:

"Class A Operator" means any person having primary responsibility for on-site operation and maintenance of underground storage tank systems.

"Class B Operator" means any person having daily on-site responsibility for the operation and maintenance of underground storage tank systems.

"Class C Operator" means any on-site employee having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

"Facility is operating", for purposes of rule 1200-01-15-.16, means normal or extended business hours when product can be dispensed from UST systems. This does not include periods when a facility is closed for business, nor when a facility is closed, but deliveries can be made to UST systems.

"Operator Training", for purposes of rule 1200-01-15-.16, means a program recognized by the division as meeting the specific requirements for each operator class as published by EPA in the Final Grant Guidelines To States For Implementing The Operator Training Provision Of The Energy Policy Act Of 2005, August, 2007.

"Retraining" means any remedial training approach imposed by the Division when significant operational compliance violations are discovered at a facility. Retraining may be directed to any or all operator classes assigned to a facility and may include requirements to successfully complete additional education, testing, and/or training, or be subject to other administrative or enforcement options at the discretion of the Division.

"UST facility" means any location at which one or more regulated underground storage tank systems are located.

Authority: T.C.A. § 68-215-101 et seq.; T.C.A. § 68-215-107; T.C.A. § 68-215-108; and T.C.A. § 68-215-113.

Paragraph (1) of Rule 1200-01-15-.03 Notification, Reporting and Recordkeeping is amended by adding a new paragraph so that the new paragraph shall read as follows:

- (h) Any change in Class A, or Class B Operators shall be reported to the Division within thirty (30) days of said change in the Division's web based training database.

Authority: T.C.A. § 68-215-101 et seq.; T.C.A. § 68-215-107.

New Rule

Chapter 1200-01-15 Underground Storage Tank Program is amended by the addition of a new rule designated as 1200-01-15-.16 and entitled Certified Operator Program. The new rule reads as follows:

1200-01-15-.16 Certified Operator Program

(1) Operator Designation Requirements

- (a) Effective August 8, 2012 every facility having one or more petroleum UST systems subject to the requirements of 1200-01-15-.01, et seq. must have one or more persons who have been designated by the tank owner as Class A, Class B, and Class C Operator(s).
- (b) A Class A, Class B, or Class C Operator is not considered the same as "operator" defined in 1200-01-15-.01(4), although the same individual may hold both positions.
- (c) A Class A, Class B, or Class C Operator is not the same as "owner" as defined in 1200-01-15-.01(4), unless such a person also owns petroleum underground storage tanks.

(2) Operator Training Requirements

- (a) Persons wishing to be classified as Class A, Class B, or Class C Operators must log on to the Division's web based training database and indicate how operator training requirements are met for each applicable classification by indicating successful completion of at least one of the following:
 - 1. Applicable portions of the Division's web-based operator training program designed to meet Class A, Class B, and/or Class C Operator training requirements, or
 - 2. Obtaining a passing score on the Tennessee UST System Operator Examination administered by the International Code Council, or
 - 3. Obtaining a passing score on the UST System Operator Examination administered by the International Code Council, or
 - 4. A UST operator training program conducted by the Division.
- (b) Class C Operator training may be provided by the tank owner, a trained Class A or Class B Operator in accordance with guidance published by the division, or by successful completion of Class C Operator training using the Division's web-based operator training program.
- (c) Class C Operators must be trained before assuming responsibility for responding to emergencies.

(3) Tank Owner Responsibilities

- (a) Tank owners must designate a Class A, and Class B Operator(s) for each facility where petroleum UST systems are located using the Division's web-based operator training database on or before August 8, 2012.
- (b) Tank owners must verify in the Division's web-based operator training database that a trained individual meeting the requirements for a Class C Operator will be on site whenever the facility is operating.
- (c) If a UST facility has a person(s) on site, at least one person on site must be a Class C Operator whenever the facility is operating. Unmanned facilities must have a designated Class A and Class

B Operator, but are not required to have designated operators on site. Class C Operator requirements for unmanned facilities may be met through appropriate conspicuously posted signage.

- (d) Tank owners may elect to replace Class A or Class B Operators at any time by providing proper notice to the Division in accordance with Rule 1200-01-15-.03(1)(h). Notice to the Division is not required when replacing a designated Class C Operator.
- (e) It will be unlawful to operate a petroleum UST facility without a Class A, Class B, and Class C Operator designations after August 8, 2012.
- (f) Documentation indicating compliance with paragraphs (2) and (3) of this rule must be made available to the Division upon request.

(4) Retraining

If a significant operational compliance violation is discovered at any time, operator retraining appropriate to the level of the operator Class must be done within a time frame acceptable to the division.

Authority: T.C.A. § 68-215-106; T.C.A. § 68-215-107; and T.C.A. § 68-215-113.???

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: January 19, 2010

Signature: Stanley R. Boyd

Name of Officer: Stanley R. Boyd

Title of Officer: Director



Subscribed and sworn to before me on: 19th day of January 2010

Notary Public Signature: Glenda B. McCloud

My commission expires on: January 24, 2012

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Filed with the Department of State on: 1/20/10

Tre Hargett

Tre Hargett
Secretary of State

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