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# Rulemaking Hearing Rule(s) Filing Form

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| | |
|---|---|
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**Revision Type (check all that apply):**

X Amendment
___ New
___ Repeal

**Rule(s) Revised** (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. 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-.02 | UST Systems: Installation and Operation |
| 1200-01-15-.03 | Notification, Reporting, and Record Keeping |
| 1200-01-15-.07 | Out-Of-Service UST Systems and Closure |

(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://tn.gov/sos/rules/1360/1360.htm)

Chapter 1200-01-15
Underground Storage Tank Program

Amendments

Paragraph (4) Definitions of Rule 1200-01-15-.01 Program Scope, Definitions and Proprietary Information is amended by inserting the phrase "biodiesel, ultra low sulphur diesel," between "No. 1 or No. 2 diesel fuel," and "or any grade of gasohol" so that, as amended the definition for Motor Fuel shall read as follows:

"Motor Fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, biodiesel, ultra low sulphur diesel, or any grade of gasohol, and is typically used in the operation of a motor engine.

Paragraph (1) of Rule 1200-01-15-.02 UST Systems: Installation and Operation is amended by deleting it in its entirety and replacing it with a new paragraph (1) to read as follows:

(1) Installation.

(a) At least fifteen (15) days prior to the installation of any tank and/or new UST system construction activities at the site, the tank owner shall notify the division in the following manner:

1. Submit a pre-installation notification form in accordance with rule 1200-01-15-.03(1)(a)1 for all the petroleum underground storage tanks and/or UST systems for which installation and/or construction is planned; and

2. Submit annual tank fees for all tanks, tank compartments and/or UST systems, which are listed in the pre-installation notification form, in accordance with rule 1200-01-15-.10(3).

(b) All tanks and piping shall be installed in accordance with the manufacturer's installation instructions.

(c) All tanks, pressurized piping and/or suction piping that do not meet the requirements of rule 1200-01-15-.04(2)(b)2(i) through (iii), and/or motor fuel dispensers installed on or after July 24, 2007, shall be secondarily contained in accordance with paragraph (2) of this rule.

(d) Motor fuel dispensers used for dispensing petroleum substances blended with more than 10% alcohol products by volume must have a listing by Underwriters Laboratories (UL) for dispensing high alcohol content fuels, and must have been manufactured after June 24, 2010.

(e) The following requirements take effect when a petroleum product is being placed into a tank, tank compartment and/or UST system either during or following installation:

1. Petroleum shall not be placed into an underground storage tank, tank compartment and/or UST system until such time as a notification form has been submitted to the Division in accordance with part 1 of subparagraph (a) of this paragraph.

2. Prior to placing product into the tank, tank compartment and/or UST system, spill and overfill prevention measures shall be implemented in accordance with paragraph (3) of this rule.

3. Prior to placing product into the tank or tank compartment an air pressure test or a vacuum test shall be conducted in accordance with the manufacturer's recommendations. The results of this test shall be maintained for the operational life of the underground storage tank system. The test results shall contain at a minimum the following information:

(i) The name of the manufacturer whose pressure test recommendations have been applied to the tank;

(ii) The name of the person performing the test and the name of the company that person represents;

(iii) The date of the pressure test;

(iv) The identification number assigned to the facility by the division;

(v) The amount of pressure applied to the tank;

(vi) The duration of the test period; and

(vii) The results of the test.

4. Begin release detection in accordance with rule 1200-01-15-.04 immediately if the tank or tank compartment contains more than two and one-half (2.5) centimeters (one (1) inch) of product.

5. Immediately protect against corrosion in accordance with paragraph (4) of this rule.

6. A line tightness test in accordance with rule 1200-01-15-.04(4)(b) and a tank tightness test in accordance with rule 1200-01-15-.04(3)(c) shall be performed upon completion of the installation and prior to the dispensing of fuel from the UST system. The results of this tightness test shall be maintained for the operational life of the underground storage tank system. Such records shall be transferred in accordance with rule 1200-01-15-.03(2)(d) at the time of ownership transfer.

(f) Installation shall be certified in accordance with rule 1200-01-15-.03(1)(d)1 within fifteen (15) days following completion of the installation.

Subparagraph (a) of paragraph (1) of Rule 1200-01-15-.03 Notification, Reporting, and Record Keeping is amended by adding new part 3 to read as follows:

3. All owners of UST systems installed to contain a petroleum substance blended with more than 10% alcohol products by volume must submit documentation demonstrating that the UST system is compatible with the product stored, at least fifteen (15) days prior to commencement of installation. Documentation must be submitted in a format established by the Division.

Paragraph (2) of Rule 1200-01-15-.03 Notification, Reporting, and Record Keeping is amended by deleting it in its entirety and replacing it with the following new paragraph (2):

(2) Reporting and record keeping. Owners, operators, and/or other responsible parties of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the Division, as well as requests for document submission, testing, and monitoring by the owner, operator, and/or other responsible party in accordance with the Tennessee Petroleum Underground Storage Tank Act T.C.A. §68-215-101 et seq.

(a) Reporting. Owners, operators, and/or other responsible parties shall submit the following information to the division:

1. Notification for all UST systems (rule 1200-01-15-.03(1), which includes certification of installation for new UST systems (rule 1200-01-15-.03(1)(d) and (e));

2. Reports of all releases including suspected releases (rule 1200-01-15-.05(1)), spills and overfills (rule 1200-01-15-.05(4)), and confirmed releases (rule 1200-01-15-.06);

3. Corrective actions planned or taken including, but not limited to, initial response measures (rule 1200-01-15-.06(3)), hazard management measures (rule 1200-01-15-.06(4)), initial site characterization and exposure assessment (rule 1200-01-15-.06(5)), corrective action plan (rule 1200-01-15-.06(10)), and as otherwise directed by the division;

4. A notification before permanent closure or change-in-service (rule 1200-01-15-.07(3) and (4)); and

5. Tank closure activities including site assessment results (rule 1200-01-15-.07(5)).

(b) Record keeping. Owners, operators, and/or other responsible parties shall maintain the following information:

1. A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (rule 1200-01-15-.02(4)(a)5; rule 1200-01-15-.02(4)(b)3);

2. Documentation of operation of corrosion protection equipment (rule 1200-01-15-.02(4)(c));

3. Documentation of UST system repairs (rule 1200-01-15-.02(7)(f));

4. Recent compliance with release detection requirements (rule 1200-01-15-.04(5)); and

5. Results of the site investigation conducted at permanent closure (rule 1200-01-15-.07(5)).

(c) Availability and maintenance of records.

1. Owners, operators, and/or other responsible parties shall keep the records required either:

(i) At the UST site and immediately available for inspection by the division; or

(ii) At a readily available alternative site and be provided for inspection to the division upon request; or

(iii) In the case of permanent closure records required under rule 1200-01-15-.07(7), owners, operators, and/or other responsible parties are also provided with the additional alternative of mailing closure records to the division if they cannot be kept at the site or an alternative site as indicated in subparts (i) or (ii) of this part.

2. If an inspection is scheduled by the division in advance of the date of that inspection, all records shall be present and available for review during the scheduled inspection.

(d) Records transfer. Upon transfer of ownership, including, but not limited to, sale of the UST systems, originals and/or copies of all documents required to satisfy the reporting and recordkeeping requirements of this paragraph shall be transferred to the new owner of the USTs at the time of ownership transfer.

Appendix 1200-01-15-.03-A

Statement for shipping tickets and invoices.

Note: A federal law (the Resource Conservation and Recovery Act (RCRA), as amended (Pub. L. 98-616)) requires owners of certain underground storage tanks to notify designated state or local agencies by May 8, 1986, of the existence of their tanks. The Tennessee Petroleum Underground Storage Tanks Act (T.C.A. § 68-215-101 et seq.) also contains notification requirements. Notifications for tanks brought into use after July 1, 1989 shall

be made fifteen (15) days in advance of installation. Consult EPA's regulations, issued on November 8, 1985 (40 CFR Part 280), state law (T.C.A. §68-215-101 et seq.) and state regulations (Chapter 1200-01-15) to determine if you are affected by these laws and regulations.

Rule 1200-01-15-.07 Out-Of-Service UST Systems and Closure is amended by deleting it in its entirety and replacing with the following Rule 1200-01-15-.07:

1200-01-15-.07 Out-Of-Service UST Systems and Closure

(1) Temporary closure.

(a) When an UST system is temporarily closed, owners, operators, and/or other responsible parties shall continue operation and maintenance of corrosion protection in accordance with rule 1200-01-15-.02(4), and any release detection in accordance with rule 1200-01-15-.04. Rule 1200-01-15-.05 and rule 1200-01-15-.06 shall be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than two and one-half (2.5) centimeters (one (1) inch) of residue remains in the system.

(b) When an UST system is temporarily closed for three (3) months or more, owners, operators, and/or other responsible parties shall also comply with the following requirements:

1. Leave vent lines open and functioning;

2. Cap and secure all other lines, pumps, manways, and ancillary equipment; and

3. File an amended notification form showing the tank system as temporarily out of use.

(2) Substandard UST systems. Unless directed to do otherwise by the Division, owners, operators, and/or other responsible parties of an UST system which does not meet the requirements in rule 1200-01-15-.02(3) and (4) shall permanently close the substandard UST system in accordance with paragraphs (4) and (5) of this rule, except that parts (4)(a)6 and 7 of this rule shall not apply to a substandard UST system. Owners, operators, and/or other responsible parties of a substandard UST system shall complete the permanent closure, including submittal of the Permanent Closure Report, within sixty (60) days of Division approval of the Application for Permanent Closure of Underground Storage Tanks.

(3) Tank compartment closure. For a tank that has more than one (1) tank compartment, one (1) or more of the tank compartments may be permanently closed in accordance with the provisions of this paragraph as well as paragraph (5) of this rule. If all the compartments in a tank are to be permanently closed, the requirements for permanent closure set forth in paragraphs (4) and (5) of this rule shall be followed by the tank owner, operator, and/or other responsible party.

(a) At least thirty (30) days before beginning tank compartment closure, owners, operators, and/or other responsible parties shall apply for tank compartment closure. Application for tank compartment closure shall meet the following requirements:

1. An Application for Closure of Tank Compartment(s) shall be submitted in a format established by the division. The application shall be completed according to the instructions provided by the division.

2. The Application for Closure of Tank Compartment(s) shall be accompanied by a written statement provided by either the tank manufacturer or a Registered Professional Engineer certifying the following:

(i) The planned closure of the tank compartment(s) will not cause structural damage to the tank; and

(ii) The corrosion protection system will continue to function as designed and will continue to effectively prevent corrosion of the tank following completion of the planned closure of the tank compartment(s).

3. The tank owner, operator, and/or other responsible party shall obtain division approval of the Application for Closure of Tank Compartment(s) prior to closing the tank compartment(s).

4. The application shall constitute a plan for tank compartment(s) closure.

5. Tank compartment(s) closure activities shall be conducted in accordance with the plan contained in the approved Application for Closure of Tank Compartment(s). If alterations to the plan are required, an amended Application for Closure of Tank Compartment(s) shall be submitted to the division for approval.

6. The approved Application for Closure of Tank Compartment(s) shall be available for inspection upon request at the petroleum site at the time of tank compartment closure.

7. Division approval of the Application for Closure of Tank Compartment(s) shall be valid for twelve (12) months following such approval. However, such approval shall not be transferable to another person during that twelve (12) month approval time.

8. If tank compartment(s) closure is not completed within twelve (12) months, the tank owner, operator, and/or other responsible party shall submit a new Application for Closure of Tank Compartment(s) to the division for approval at least thirty (30) days before beginning tank compartment closure.

(b) The required site assessment under paragraph (5) of this rule shall be performed after receipt of division approval of the Application for Tank Compartment(s) Closure, but before completion of the tank compartment closure. Results of all samples taken during the closure of the tank compartment must be reported to the department within sixty (60) days of collection. Samples may be taken while the compartments of the underground storage tank system that are not being permanently closed are in operation. However, samples may not be taken while the tank compartment that is being permanently closed is still in operation.

(c) To permanently close a tank compartment, owners, operators, and/or other responsible parties shall empty and clean the compartment which is to be closed by removing all liquids and accumulated sludges. All tank compartments taken out of service permanently shall be filled with an inert solid material such as a cement compound, sand, gravel, etc. The inert solid material must have a specific gravity greater than one (1.0).

(d) Tank compartment closure activities shall not damage those portions of the underground storage tank system that are not being permanently closed.

(e) Tank compartment closure activities shall not cause or allow a release of petroleum from the underground storage tank system into the environment.

(f) Paragraphs (4) and (5) of this rule shall be followed when the final tank compartment is permanently closed.

(4) Permanent closure and changes-in-service.

(a) At least thirty (30) days before beginning either permanent closure of any portion of an underground storage tank system or a change-in-service under subparagraphs (b) and (c) of this paragraph, owners, operators, and/ or other responsible parties shall apply for permanent closure, unless such action is in response to corrective action. Application for permanent closure or change in service shall meet the following requirements:

1. An Application for Permanent Closure of Underground Storage Tank Systems shall be submitted in a format established by the division. The application shall be completed according to the instructions provided by the division.

2. The tank owner, operator, and or other responsible party shall obtain division approval of the Application for Permanent Closure prior to permanently closing the UST system or any portion thereof or effecting a change in service of the UST system, unless tank compartment closure is conducted in accordance with paragraphs (3) and (5) of this rule.

3. The application shall constitute a plan for closure or change in service of the UST system, or any portion thereof.

4. Change in service or closure activities shall be conducted in accordance with the plan contained in the approved Application for Permanent Closure. If alterations to the plan are required, an amended Application for Permanent Closure shall be submitted to the division for approval.

5. The approved Application for Permanent Closure of Underground Storage Tank Systems shall be available for inspection upon request at the petroleum site at the time of closure.

6. Division approval of the Application for Permanent Closure shall be valid for twelve (12) months following such approval. However, such approval shall not be transferable to another person during that twelve (12) month approval time.

7. If permanent closure or change-in-service is not completed within twelve (12) months, the tank owner, operator, and/or other responsible party shall submit a new Application for Permanent Closure to the division for approval at least thirty (30) days before beginning underground storage tank system closure.

(b) To permanently close a tank, owners, operators, and/or other responsible parties shall empty and clean it by removing all liquids and accumulated sludges. All tanks taken out of service permanently shall also be either removed from the ground or filled with an inert solid material such as a cement compound, sand, gravel, etc. The inert solid material shall have a specific gravity greater than 1.0.

(c) Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners, operators, and/or other responsible parties shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with paragraph (5) of this rule.

(d) Should an owner, operator, and/or other responsible party elect to excavate and remove a tank from the site, such excavation and removal shall be done in accordance with Appendix 1200-01-15-.07-A.

(e) Once a tank has been excavated, it may be stored on-site or transported off-site for storage or disposal. Excavated tanks which have not been cut into sections for disposal shall be considered in storage and shall at all times, while in storage, be maintained in a vapor-free state and stored in accordance with Appendix 1200-01-15-.07-A.

(f) Tanks shall not be stored at a UST facility unless they are maintained in a vapor-free state, stored in accordance with Appendix 1200-01-15-.07-A, and one of the following conditions are met:

1. (i) Tanks have been cleaned by removal of all liquids and accumulated sludges; and

   (ii) Tanks have been purged of vapors so that any explosive levels do not exceed twenty percent (20%) of the lower explosive limit for the regulated substance; and

(iii) Tanks have an opening or openings installed which comprise a minimum of ten percent (10%) of the total tank surface area. Such openings will not be considered openings if they are in contact or contiguous with the ground or surface on which the tank may be resting; or

2. Subparts 1(i) and (ii) of this subparagraph have been complied with and there are no remaining USTs either in use or in a temporarily closed condition at the facility; or

3. Tanks which are removed from a UST facility and are intended for reuse at the same or another facility as USTs may be stored at a UST facility if the owner, operator, and/or other responsible party meets the conditions described in subparts 1(i) and (ii) of this subparagraph, and either removes the tank off-site from a UST facility or puts it back into service within thirty (30) days of excavation.

(g) Tanks shall be stored in a manner which does not pose safety hazards. Tanks shall be stored in a position with the tank's center of gravity closest to the ground. Tanks shall not be stacked. Tanks shall be secured so that they will not roll or slide across a level or sloping ground surface.

[NOTE: Transportation and disposal of tanks will be subject to all applicable Federal, State, and local laws and regulations concerning the safe transportation and proper disposal of such materials.]

(5) Assessing the site at tank closure, tank compartment closure or change-in-service. The required site assessment shall be performed after receipt of division approval of either an Application for Permanent Closure of Underground Storage Tank System(s) or an Application for Closure of Tank Compartment(s), but before completion of either the permanent closure, tank compartment closure or a change-in-service. The required site assessment shall be performed in accordance with guidance provided by the division.

(a) Before permanent closure of a tank or a tank compartment or a change-in service is completed, owners, operators, and/or other responsible parties shall measure for the presence of a release where contamination is most likely to be present at the UST site. Sampling shall meet the following requirements:

1. In selecting sample types, sample locations, and measurement methods, owners, operators, and/or other responsible parties shall consider the method of closure, the nature of the stored substance, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence of a release.

2. At least one day before samples are taken, the owner, operator, and/or other responsible party shall notify the division concerning the schedule for sample collection.

(b) Results of all samples taken during change in service or closure of the underground storage tank system or closure of a tank compartment shall be reported to the division within sixty (60) days of collection. Samples shall not be taken while the underground storage tank system is in operation, except when tank compartment closure is being conducted in accordance with paragraph (3) of this rule. Sample results shall be submitted as an attachment to either a Permanent Closure Report for Underground Storage Tank Systems or a Permanent Closure Report for Tank Compartments.

(c) The Permanent Closure Report for Underground Storage Tank Systems shall be submitted in a format established by the division. The Permanent Closure Report for Underground Storage Tank Systems shall be completed in accordance with the instructions provided by the division.

(d) The Permanent Closure Report for Tank Compartments shall be submitted in a format established by the division. The Permanent Closure Report for Tank Compartments shall be completed in accordance with the instructions provided by the division.

(e) The report, either the Permanent Closure Report for Underground Storage Tank Systems or the Permanent Closure Report for Tank Compartments, shall include, but not be limited to, the following information:

1. The facility identification number assigned to the facility by the division;

2. Facility name and address;

3. An updated post-closure site map;

4. Sampling, including field screening and laboratory analytical results;

5. Information concerning the removal, storage and/or disposal of tanks, piping and other ancillary underground equipment; and

6. Information concerning the removal, remediation and/or disposal of petroleum, petroleum waste, petroleum contaminated soil and/or ground water.

(f) If contaminated soils, contaminated ground water, or free product as a liquid or vapor is discovered under subparagraph (a) of this paragraph, or by any other manner, owners, operators, and/or other responsible parties shall begin release response and corrective action in accordance with rule 1200-01-15-.06.

(6) Applicability to previously closed UST systems. When directed by the division, the owner, operator, and/or other responsible party of an UST system permanently closed before December 22, 1988 shall assess the site and close the UST system in accordance with this rule if releases from the UST may, in the judgment of the division, pose a current or potential threat to human health and the environment.

(7) Closure records. Owners, operators, and/or other responsible parties shall maintain records in accordance with rule 1200-01-15-.03(2) that are capable of demonstrating compliance with closure requirements under this rule. The results of the site assessment required in paragraph (5) of this rule shall be maintained for at least three (3) years after completion of permanent closure or change-in-service in one of the following ways:

(a) By the owners, operators, and/or other responsible parties who took the UST system out of service;

(b) By the current owners, operators, and/or other responsible parties of the UST system site; or

(c) By mailing these records to the division if they cannot be maintained at the closed facility.

## APPENDIX 1200-01-15-.07 – A
## REMOVAL OF UNDERGROUND TANKS

(1) Preparation.

(a) Drain product piping into the tank, being careful to avoid any spillage. Cap or remove product piping.

(b) Remove liquids and residues from the tank by using explosion-proof or air-driven pumps. Pump motors and suction hoses shall be bonded to the tank or otherwise grounded to prevent electrostatic ignition hazards. It may be necessary to use a hand pump to remove the last few inches of liquid from the bottom of the tank.

NOTE: (The Federal Resource Conservation and Recovery Act (RCRA) 42 U.S.C. Section 6901 et seq., and the Tennessee Hazardous Waste Management Act (HWMA) Part 1 T.C.A. § 68-212-101 et seq. place restrictions on disposal of certain residues that may be present in some underground storage tanks. Residues from tanks that have held leaded gasoline should be

treated with extreme caution. Lead compounds and other residues in the tank may be classified as hazardous wastes).

(c) Excavate to the top of tank.

(d) Remove the fill pipe, gauge pipe, vapor recovery truck connection, submersible pumps, and other tank fixtures. Remove the drop tube, except when it is planned to vapor-free the tank by using an eductor. Cap or remove all non-product lines, such as vapor recovery lines, except the vent line. The vent line shall remain connected until the tank is purged. Temporarily plug all other tank openings so that all vapors will exit through the vent line during the vapor-freeing process.

(2) Purging.

(a) Remove flammable vapors by one of the methods described in subparagraphs (b) through (e) of this paragraph, or as required by local codes. These methods provide a means for temporary vapor-freeing of the tank atmosphere. However, it is important to recognize that the tank may continue to be a source of flammable vapors even after following the vapor-freeing procedures described in subparagraphs (b) through (e) of this paragraph. For this reason, caution shall always be exercised when handling or working around tanks that have stored flammable or combustible liquids. Before initiating work in the tank area or on the tank, a combustible gas indicator shall be used to assess vapor concentrations in the tank and work area. All work shall be done in accordance with Paragraph (3), "Testing".

(b) Vent all vapors from the tank at a minimum height of twelve (12) feet above grade and three (3) feet above any adjacent roof lines until the tank is purged of flammable vapors. The work area shall be free from sources of ignition.

(c) Flammable and combustible vapors may be purged with an inert gas such as carbon dioxide ($CO_2$) or nitrogen ($N_2$). This method is not to be utilized if the tank is to be entered for any reason, as the tank atmosphere will be oxygen deficient. The inert gas is to be introduced through a single tank opening at a point near the bottom of the tank at the end of the tank opposite the vent. When inert gases are used, they shall be introduced under low pressure to avoid the generation of static electricity. When using $CO_2$ or $N_2$, pressures in the tank shall not exceed five (5) pounds per square inch gauge.

Caution: The process of introducing compressed gases into the tank may create a potential ignition hazard as the result of the development of static electrical charges. The discharging device shall therefore be grounded. Explosions have resulted from the discharging of $CO_2$ fire extinguishers into tanks containing a flammable vapor-air mixture. $CO_2$ extinguishers shall not be used for inerting flammable atmospheres.

(d) If the method described in (c) is not practical, the vapors in the tank may be displaced by adding solid carbon dioxide (dry ice) to the tank in the amount of at least 1.5 pounds per one hundred (100) gallons of tank capacity. The dry ice should be crushed and distributed evenly over the greatest possible area in the tank to promote rapid evaporation. As the dry ice vaporizes, flammable vapors will flow out of the tank and may surround the area. Therefore, where practical, plug all tank openings except the vent after introducing the solid $CO_2$ and continue to observe all normal safety precautions regarding flammable or combustible vapors. Make sure that all of the dry ice has evaporated before proceeding.

(e) Flammable vapors may be exhausted from the tank by one of two methods of tank ventilation listed below:

1. Ventilation using an eductor-type air mover usually driven by compressed air. The eductor-type air mover shall be properly bonded to prevent the generation and discharge of static electricity. When using this method, the fill (drop) tube shall remain in place to ensure ventilation at the bottom of the tank. Tanks equipped with fill (drop) tubes that are not removable should be purged by this method. An eductor extension shall be used to

discharge vapors a minimum of twelve (12) feet above grade and at least three (3) feet above any adjacent roof line.

2. Ventilation with a diffused air blower. When using this purging method, it is imperative that the air-diffusing pipe is properly bonded to prevent the discharge of a spark. Fill (drop) tubes shall be removed to allow proper diffusion of the air in the tank. Air supply should be from a compressor that has been checked to ensure a clean air supply and is free from volatile vapors. Air pressure in the tank shall not exceed five (5) pounds per square inch gauge.

(3) Testing.

(a) The tank atmosphere and the excavation area are to be regularly tested for flammable or combustible vapor concentrations until the tank is removed from both the excavation and the site. Such tests are to be made with a combustible gas indicator which is properly calibrated according to the manufacturer's instructions and which is thoroughly checked and maintained in accordance with the manufacturer's instructions. Persons responsible for testing shall be completely familiar with the use of the instrument and the interpretation of the instrument's readings.

(b) The tank vapor space is to be tested by placing the combustible gas indicator probe into the fill opening with the drop tube removed. Readings should be taken at the bottom, middle, and upper portions of the tank, and the instrument should be cleared after each reading. If the tank is equipped with a non-removable fill tube, readings are to be taken through another opening. Liquid product shall not enter the probe. Readings of twenty percent (20%) or less of the lower flammable limit shall be obtained before the tank is considered safe for removal from the ground.

(c) Tanks purged with an inert gas shall be sampled with an oxygen indicator and the oxygen content shall be considered while interpreting combustible gas indicator results.

(4) Removal.

(a) After the tank has been freed of vapors and before it is removed from the excavation, plug or cap all accessible holes. One plug shall have a one-eighth of an inch vent hole to prevent the tank from being subjected to excessive differential pressure caused by temperature changes. The tank shall always be positioned with this vent plug on top of the tank during subsequent transport and storage.

(b) Excavate around the tank to uncover it for removal. Remove the tank from the excavation and place it on a level surface. Use wood blocks to prevent movement of the tank after removal and prior to loading on a truck for transportation. Use screwed (boiler) plugs to plug any corrosion holes in the tank shell.

(c) Precautions shall be taken to assure any vapors left in the tank do not reach a combustible level. If this situation occurs, the tank shall be purged according to paragraph (2) of this appendix.

(d) Before the tank is removed from the site, the tank atmosphere shall be checked with a combustible gas indicator to ensure that it does not exceed twenty percent (20%) of the lower flammable limit.

(e) The tank shall be secured on a truck for transportation to the storage or disposal site with the one-eighth of an inch vent hole located at the uppermost point on the tank. Tanks shall be transported in accordance with all applicable local, state, and federal laws and regulations.

(f) Tanks shall be labeled after removal from the ground but prior to removal from the site. Regardless of the condition of the tank, the label shall contain a warning against certain types of reuse. The former contents and present vapor state of each tank, including vapor-freeing treatment and data shall also be indicated. The label shall be similar to the following in legible letters at least two (2) inches high:

Tank Has Contained Leaded Gasoline*

Not Vapor Free

Not Suitable For Storage Of Food Or Liquids

Intended For Human Or Animal Consumption

Date Of Removal: Month/Day/Year

*Or other flammable/combustible liquid. Use the applicable designation, for example, diesel.

Tanks that have held leaded motor fuels (or whose service history is unknown) shall also be clearly labeled with the following information:

Tank Has Contained Leaded Gasoline

Lead Vapors May Be Released If Heat

Is Applied To The Tank Shell

(5) Storage Of Used Tanks.

Storage Procedures.

(a) Tanks shall be vapor-freed before being placed in storage. Tanks shall also be free of all liquids and residues. All tank openings shall be tightly plugged or capped, with one plug having a one-eighth of an inch vent hole to prevent the tank from being subjected to excessive differential pressure caused by temperature changes. Tanks shall be stored with the vented plug at the highest point on the tank. All tanks shall be labeled.

(b) Used tanks shall be stored in secure areas where the general public will not have access.

Authority: T.C.A. §§ 68-215-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|---|---|---|---|---|---|
| Mayor Allen Barker | | | | ✓ | |
| Jonathan M. Edwards | ✓ | | | | |
| Sharon O. Jacobs | ✓ | | | | |
| Bhag Kanwar | ✓ | | | | |
| John Owsley | ✓ | | | | |
| DeAnne Redman | ✓ | | | | |
| Larry R. Reynolds | ✓ | | | | |
| Jon Roach | | | | ✓ | |
| Vacant | | | | ✓ | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Petroleum Underground Storage Tank Board on 04/27/2011, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/23/10

Rulemaking Hearing(s) Conducted on: (add more dates). 01/20/11

Date: April 27, 2011

Signature: Jonathan M. Edwards

Name of Officer: Jonathan M. Edwards

Title of Officer: Chairman

Subscribed and sworn to before me on: April 27, 2011

Notary Public Signature: Teresa H. Lewis

My commission expires on: Nov. 28, 2011

TERESA H. LEWIS NOTARY PUBLIC AT LARGE WILSON CO. TENN.

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter

7-7-11
Date

**Department of State Use Only**

Filed with the Department of State on: 7/11/11

Effective on: 11/17/2011 ~~10/4/11~~

Tre Hargett by Wm Lott, POA
Tre Hargett
Secretary of State

RECEIVED
2011 JUL 11 PM 2:51
SECRETARY OF STATE
PUBLICATIONS

**Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: A commenter felt the definition of motor fuel should be a standalone rule.

Response: The Board maintains that the definition of motor fuel falls under the Housekeeping rules as it simply clarifies the definition to include new fuel types that are regulated and therefore does not need to be a standalone rule.

Comment: A commenter felt that the requirement for motor fuel dispensers to be UL listed and the requirement that owners of UST systems, containing greater than 10% alcohol, submit documentation of compatibility should both be part of the other proposed rule package.

Response: The motor fuel dispenser requirement is an E85 issue that was addressed by an EPA requirement regarding the new UL Listing and that is the reason it was added to these housekeeping rules.

The compatibility documentation is also an E85 issue. The proposed rules only require verification of compatibility on new installations, as the Division has previously required it as a matter of interpretation of existing rules. The proposed rule does not limit the tank owner from using fuels with greater than 10% ethanol; it simply asks for verification that the components of the new system are compatible. It is the express intent of Tennessee Petroleum Underground Storage Tank Act, at T.C.A. § 68-215-102, to provide for the safe storage of petroleum products. This proposed rule simply verifies that the product stored is compatible with the system components.

Comment: A commenter felt that the UST program does not regulate dispensers and that dispenser requirement should be left out of the Rule change.

Response: The motor fuel dispenser requirement is an E85 issue with regard to the new UL Listing and that is the reason it was added to the housekeeping rules. Also, the existing rules regulate the use of ancillary equipment and the dispenser is part of this ancillary equipment. If the rules did not regulate ancillary equipment, then releases from the dispenser would not be covered by the fund.

**Regulatory Flexibility Addendum**

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

All businesses owning underground storage tanks are affected by the amendment, however the Board does not expect there to be any cost to small businesses or any real benefit. These are basic housekeeping rules, to clarify the existing rules.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The Board does not anticipate any administrative costs from these basic housekeeping rules, to clarify the existing rules.

(3) A statement of the probable effect on impacted small businesses and consumers.

The Board does not anticipate any impact on small businesses or consumers. These are basic housekeeping rules.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There is no burden or cost on the tank owner, so there is no need for an alternative. These are basic housekeeping rules, to clarify the existing rules.

(5) A comparison of the proposed rule with any federal or state counterparts.

These rule changes are a clarification of the existing rules to bring them more in line with the federal rules.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exempting small businesses from all or any part of these clarifying changes to the existing rules would prevent them from having the benefit of the clarifications.

**Impact on Local Governments**

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

(Insert statement here)

The Department anticipates that these amended rules will not have a financial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

**(A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Proposed Rule 1200-01-15-.01 amends the definition of "motor fuel" to clarify that biodiesel and ultra low sulphur diesel are included in the definition. Rule 1200-01-15-.02 makes it clear that motor fuel dispensers for petroleum substances with greater than 10% ethanol are to be listed by Underwriters Laboratories for dispensing high alcohol content and are to have been manufactured after June 24, 2010. Part (1)(a)3 of Rule 1200-01-15-.03 is being added to make it clear that compatibility documentation is required for new systems being installed that contain petroleum substances with greater than 10% ethanol. Paragraph (2) of Rule 1200-01-15-.03 and Rule 1200-01-15-.07 are amended to allow "other responsible parties" to close USTs as are owners and/or operators.

**(B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This amendment is promulgated under the authority of T.C.A. 68-215-101 et seq. -- Tennessee Petroleum Underground Storage Tank Act, as amended by the 2008 UST Act.

**(C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All businesses owning and/or operating petroleum underground storage tank are affected by this rule.

**(D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Petroleum Underground Storage Tank Board is not aware of any.

**(E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

No increase or decrease is anticipated because this rule change is a clarification of existing rules.

**(F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Rhonda Key
Division of Underground Storage Tanks
4th Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243-1541

**(G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan Leiserson
Legal Services Director
Department of Environment and Conservation

**(H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L&C Tower
Nashville, Tennessee 37243-1548
Phone: (615) 532-0131
Alan.Leiserson@tn.gov

**(I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

The Petroleum Underground Storage Tank Board is not aware of any.

**Department of State**
**Division of Publications**
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
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**For Department of State Use Only**

Sequence Number: 07-07-11
Rule ID(s): 1964
File Date: 07/11/2011
Effective Date: 10/09/2011

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

| | |
|---|---|
| **Agency/Board/Commission:** | Environment and Conservation |
| **Division:** | Underground Storage Tanks |
| **Contact Person:** | Rhonda Key |
| **Address:** | 4th Floor, L & C Tower<br>401 Church Street<br>Nashville, Tennessee |
| **Zip:** | 37243-1541 |
| **Phone:** | 615-532-0989 |
| **Email:** | Rhonda.Key@tn.gov |

**Revision Type (check all that apply):**

X Amendment
___ New
___ Repeal

**Rule(s) Revised** (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. 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-.02 | UST Systems: Installation and Operation |
| 1200-01-15-.03 | Notification, Reporting, and Record Keeping |
| 1200-01-15-.07 | Out-Of-Service UST Systems and Closure |

(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://tn.gov/sos/rules/1360/1360.htm)

Chapter 1200-01-15
Underground Storage Tank Program

Amendments

Paragraph (4) Definitions of Rule 1200-01-15-.01 Program Scope, Definitions and Proprietary Information is amended by inserting the phrase "biodiesel, ultra low sulphur diesel," between "No. 1 or No. 2 diesel fuel," and "or any grade of gasohol" so that, as amended the definition for Motor Fuel shall read as follows:

"Motor Fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, biodiesel, ultra low sulphur diesel, or any grade of gasohol, and is typically used in the operation of a motor engine.

Paragraph (1) of Rule 1200-01-15-.02 UST Systems: Installation and Operation is amended by deleting it in its entirety and replacing it with a new paragraph (1) to read as follows:

(1) Installation.

(a) At least fifteen (15) days prior to the installation of any tank and/or new UST system construction activities at the site, the tank owner shall notify the division in the following manner:

1. Submit a pre-installation notification form in accordance with rule 1200-01-15-.03(1)(a)1 for all the petroleum underground storage tanks and/or UST systems for which installation and/or construction is planned; and

2. Submit annual tank fees for all tanks, tank compartments and/or UST systems, which are listed in the pre-installation notification form, in accordance with rule 1200-01-15-.10(3).

(b) All tanks and piping shall be installed in accordance with the manufacturer's installation instructions.

(c) All tanks, pressurized piping and/or suction piping that ~~does~~ do not meet the requirements of rule 1200-01-15-.04(2)(b)2(i) through (iii), and/or motor fuel dispensers installed on or after July 24, 2007, shall be secondarily contained in accordance with paragraph (2) of this rule.

(d) Motor fuel dispensers used for dispensing petroleum substances blended with more than 10% alcohol products by volume must have a listing by Underwriters Laboratories (UL) for dispensing high alcohol content fuels, and must have been manufactured after June 24, 2010.

~~(d)~~(e) The following requirements take effect when a petroleum product is being placed into a tank, tank compartment and/or UST system either during or following installation:

1. Petroleum shall not be placed into an underground storage tank, tank compartment and/or UST system until such time as a notification form has been submitted to the Division in accordance with part 1 of subparagraph (a) of this paragraph.

2. Prior to placing product into the tank, tank compartment and/or UST system, spill and overfill prevention measures shall be implemented in accordance with paragraph (3) of this rule.

3. Prior to placing product into the tank or tank compartment an air pressure test or a vacuum test shall be conducted in accordance with the manufacturer's recommendations. The results of this test shall be maintained for the operational life of the underground storage tank system. The test results shall contain at a minimum the following information:

(i) The name of the manufacturer whose pressure test recommendations have been applied to the tank;

(ii) The name of the person performing the test and the name of the company that person represents;

(iii) The date of the pressure test;

(iv) The identification number assigned to the facility by the division;

(v) The amount of pressure applied to the tank;

(vi) The duration of the test period; and

(vii) The results of the test.

4. Begin release detection in accordance with rule 1200-01-15-.04 immediately if the tank or tank compartment contains more than two and one-half (2.5) centimeters (one (1) inch) of product.

5. Immediately protect against corrosion in accordance with paragraph (4) of this rule.

6. A line tightness test in accordance with rule 1200-01-15-.04(4)(b) and a tank tightness test in accordance with rule 1200-01-15-.04(3)(c) shall be performed upon completion of the installation and prior to the dispensing of fuel from the UST system. The results of this tightness test shall be maintained for the operational life of the underground storage tank system. Such records shall be transferred in accordance with rule 1200-01-15-.03(2)(d) at the time of ownership transfer.

~~(e)~~(f) Installation shall be certified in accordance with rule 1200-01-15-.03(1)(d)1 within fifteen (15) days following completion of the installation.

Subparagraph (a) of paragraph (1) of Rule 1200-01-15-.03 Notification, Reporting, and Record Keeping is amended by adding new part 3 to read as follows:

3. All owners of UST systems installed to contain a petroleum substance blended with more than 10% alcohol products by volume must submit documentation demonstrating that the UST system is compatible with the product stored, at least fifteen (15) days prior to commencement of installation. Documentation must be submitted in a format established by the Division.

Paragraph (2) of Rule 1200-01-15-.03 Notification, Reporting, and Record Keeping is amended by deleting it in its entirety and replacing it with the following new paragraph (2):

(2) Reporting and record keeping. Owners, ~~and/or~~ operators, and/or other responsible parties of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the Division, as well as requests for document submission, testing, and monitoring by the owner, ~~and/or~~ operator, and/or other responsible party in accordance with the Tennessee Petroleum Underground Storage Tank Act T.C.A. §68-215-101 et seq.

(a) Reporting. Owners, ~~and/or~~ operators, and/or other responsible parties shall submit the following information to the division:

1. Notification for all UST systems (rule 1200-01-15-.03(1), which includes certification of installation for new UST systems (rule 1200-01-15-.03(1)(d) and (e));

2. Reports of all releases including suspected releases (rule 1200-01-15-.05(1)), spills and overfills (rule 1200-01-15-.05(4)), and confirmed releases (rule 1200-01-15-.06);

3. Corrective actions planned or taken including, but not limited to, initial response measures (rule 1200-01-15-.06(3)), hazard management measures (rule 1200-01-15-.06(4)), initial site characterization and exposure assessment (rule 1200-01-15-.06(5)), corrective action plan (rule 1200-01-15-.06(10)), and as otherwise directed by the division;

4. A notification before permanent closure or change-in-service (rule 1200-01-15-.07(3) and (4)); and

5. Tank closure activities including site assessment results (rule 1200-01-15-.07(5)).

(b) Record keeping. Owners, ~~and/or~~ operators, and/or other responsible parties shall maintain the following information:

1. A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (rule 1200-01-15-.02(4)(a)5; rule 1200-01-15-.02(4)(b)3);

2. Documentation of operation of corrosion protection equipment (rule 1200-01-15-.02(4)(c));

3. Documentation of UST system repairs (rule 1200-01-15-.02(7)(f));

4. Recent compliance with release detection requirements (rule 1200-01-15-.04(5)); and

5. Results of the site investigation conducted at permanent closure (rule 1200-01-15-.07(5)).

(c) Availability and maintenance of records.

1. Owners, ~~and/or~~ operators, and/or other responsible parties shall keep the records required either:

(i) At the UST site and immediately available for inspection by the division; or

(ii) At a readily available alternative site and be provided for inspection to the division upon request; or

(iii) In the case of permanent closure records required under rule 1200-01-15-.07(7), owners, ~~and/or~~ operators, and/or other responsible parties are also provided with the additional alternative of mailing closure records to the division if they cannot be kept at the site or an alternative site as indicated in subparts (i) or (ii) of this part.

2. If an inspection is scheduled by the division in advance of the date of that inspection, all records shall be present and available for review during the scheduled inspection.

(d) Records transfer. Upon transfer of ownership, including, but not limited to, sale of the UST systems, originals and/or copies of all documents required to satisfy the reporting and recordkeeping requirements of this paragraph shall be transferred to the new owner of the USTs at the time of ownership transfer.

Appendix 1200-01-15-.03-A

Statement for shipping tickets and invoices.

Note: A federal law (the Resource Conservation and Recovery Act (RCRA), as amended (Pub. L. 98-616)) requires owners of certain underground storage tanks to notify designated

state or local agencies by May 8, 1986, of the existence of their tanks. The Tennessee Petroleum Underground Storage Tanks Act (T.C.A. § 68-215-101 et seq.) also contains notification requirements. Notifications for tanks brought into use after July 1, 1989 shall be made fifteen (15) days in advance of installation. Consult EPA's regulations, issued on November 8, 1985 (40 CFR Part 280), state law (T.C.A. §68-215-101 et seq.) and state regulations (Chapter 1200-01-15) to determine if you are affected by these laws and regulations.

Rule 1200-01-15-.07 Out-Of-Service UST Systems and Closure is amended by deleting it in its entirety and replacing with the following Rule 1200-01-15-.07:

1200-01-15-.07 Out-Of-Service UST Systems and Closure

(1) Temporary closure.

(a) When an UST system is temporarily closed, owners, operators, and/or other responsible parties shall continue operation and maintenance of corrosion protection in accordance with rule 1200-01-15-.02(4), and any release detection in accordance with rule 1200-01-15-.04. Rule 1200-01-15-.05 and rule 1200-01-15-.06 shall be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than two and one-half (2.5) centimeters (one (1) inch) of residue remains in the system.

(b) When an UST system is temporarily closed for three (3) months or more, owners, ~~and/or~~ operators, and/or other responsible parties shall also comply with the following requirements:

1. Leave vent lines open and functioning;

2. Cap and secure all other lines, pumps, manways, and ancillary equipment; and

3. File an amended notification form showing the tank system as temporarily out of use.

(2) Substandard UST systems. Unless directed to do otherwise by the Division, owners, ~~and/or~~ operators, and/or other responsible parties of an UST system which does not meet the requirements in rule 1200-01-15-.02(3) and (4) shall permanently close the substandard UST system in accordance with paragraphs (4) and (5) of this rule, except that parts (4)(a)6 and 7 of this rule shall not apply to a substandard UST system. ~~The~~ Owners, ~~and/or~~ operators, and/or other responsible parties of a substandard UST system shall complete the permanent closure, including submittal of the Permanent Closure Report, within sixty (60) days of Division approval of the Application for Permanent Closure of Underground Storage Tanks.

(3) Tank compartment closure. For a tank that has more than one (1) tank compartment, one (1) or more of the tank compartments may be permanently closed in accordance with the provisions of this paragraph as well as paragraph (5) of this rule. If all the compartments in a tank are to be permanently closed, the requirements for permanent closure set forth in paragraphs (4) and (5) of this rule shall be followed by the tank owner, ~~and/or~~ operator, and/or other responsible party.

(a) At least thirty (30) days before beginning tank compartment closure, owners, ~~and/or~~ operators, and/or other responsible parties shall apply for tank compartment closure. Application for tank compartment closure shall meet the following requirements:

1. An Application for Closure of Tank Compartment(s) shall be submitted in a format established by the division. The application shall be completed according to the instructions provided by the division.

2. The Application for Closure of Tank Compartment(s) shall be accompanied by a written statement provided by either the tank manufacturer or a Registered Professional Engineer certifying the following:

(i) The planned closure of the tank compartment(s) will not cause structural damage to the tank; and

(ii) The corrosion protection system will continue to function as designed and will continue to effectively prevent corrosion of the tank following completion of the planned closure of the tank compartment(s).

3. The tank owner, ~~and/or~~ operator, and/or other responsible party shall obtain division approval of the Application for Closure of Tank Compartment(s) prior to closing the tank compartment(s).

4. The application shall constitute a plan for tank compartment(s) closure.

5. Tank compartment(s) closure activities shall be conducted in accordance with the plan contained in the approved Application for Closure of Tank Compartment(s). If alterations to the plan are required, an amended Application for Closure of Tank Compartment(s) shall be submitted to the division for approval.

6. The approved Application for Closure of Tank Compartment(s) shall be available for inspection upon request at the petroleum site at the time of tank compartment closure.

7. Division approval of the Application for Closure of Tank Compartment(s) shall be valid for twelve (12) months following such approval. However, such approval shall not be transferable to another person during that twelve (12) month approval time.

8. If tank compartment(s) closure is not completed within twelve (12) months, the tank owner, ~~and/or~~ operator, and/or other responsible party shall submit a new Application for Closure of Tank Compartment(s) to the division for approval at least thirty (30) days before beginning tank compartment closure.

(b) The required site assessment under paragraph (5) of this rule shall be performed after receipt of division approval of the Application for Tank Compartment(s) Closure, but before completion of the tank compartment closure. Results of all samples taken during the closure of the tank compartment must be reported to the department within sixty (60) days of collection. Samples may be taken while the compartments of the underground storage tank system that are not being permanently closed are in operation. However, samples may not be taken while the tank compartment that is being permanently closed is still in operation.

(c) To permanently close a tank compartment, owners, ~~and/or~~ operators, and/or other responsible parties shall empty and clean the compartment which is to be closed by removing all liquids and accumulated sludges. All tank compartments taken out of service permanently shall be filled with an inert solid material such as a cement compound, sand, gravel, etc. The inert solid material must have a specific gravity greater than one (1.0).

(d) Tank compartment closure activities shall not damage those portions of the underground storage tank system that are not being permanently closed.

(e) Tank compartment closure activities shall not cause or allow a release of petroleum from the underground storage tank system into the environment.

(f) Paragraphs (4) and (5) of this rule shall be followed when the final tank compartment is permanently closed.

(4) Permanent closure and changes-in-service.

(a) At least thirty (30) days before beginning either permanent closure of any portion of an underground storage tank system or a change-in-service under subparagraphs (b) and (c) of this paragraph, owners, ~~and/or~~ operators, and/or other responsible parties shall apply for permanent

closure, unless such action is in response to corrective action. Application for permanent closure or change in service shall meet the following requirements:

1. An Application for Permanent Closure of Underground Storage Tank Systems shall be submitted in a format established by the division. The application shall be completed according to the instructions provided by the division.

2. The tank owner, ~~and/or~~ operator, and/or other responsible party shall obtain division approval of the Application for Permanent Closure prior to permanently closing the UST system or any portion thereof or effecting a change in service of the UST system, unless tank compartment closure is conducted in accordance with paragraphs (3) and (5) of this rule.

3. The application shall constitute a plan for closure or change in service of the UST system, or any portion thereof.

4. Change in service or closure activities shall be conducted in accordance with the plan contained in the approved Application for Permanent Closure. If alterations to the plan are required, an amended Application for Permanent Closure shall be submitted to the division for approval.

5. The approved Application for Permanent Closure of Underground Storage Tank Systems shall be available for inspection upon request at the petroleum site at the time of closure.

6. Division approval of the Application for Permanent Closure shall be valid for twelve (12) months following such approval. However, such approval shall not be transferable to another person during that twelve (12) month approval time.

7. If permanent closure or change-in-service is not completed within twelve (12) months, the tank owner, ~~and/or~~ operator, and/or other responsible party shall submit a new Application for Permanent Closure to the division for approval at least thirty (30) days before beginning underground storage tank system closure.

(b) To permanently close a tank, owners, ~~and/or~~ operators, and/or other responsible parties shall empty and clean it by removing all liquids and accumulated sludges. All tanks taken out of service permanently shall also be either removed from the ground or filled with an inert solid material such as a cement compound, sand, gravel, etc. The inert solid material shall have a specific gravity greater than 1.0.

(c) Continued use of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners, ~~and/or~~ operators, and/or other responsible parties shall empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with paragraph (5) of this rule.

(d) Should an owner, ~~and/or~~ operator, and/or other responsible party elect to excavate and remove a tank from the site, such excavation and removal shall be done in accordance with Appendix 1200-01-15-.07-A.

(e) Once a tank has been excavated, it may be stored on-site or transported off-site for storage or disposal. Excavated tanks which have not been cut into sections for disposal shall be considered in storage and shall at all times, while in storage, be maintained in a vapor-free state and stored in accordance with Appendix 1200-01-15-.07-A.

(f) Tanks shall not be stored at a UST facility unless they are maintained in a vapor-free state, stored in accordance with Appendix 1200-01-15-.07-A, and one of the following conditions are met:

1. (i) Tanks have been cleaned by removal of all liquids and accumulated sludges; and

(ii) Tanks have been purged of vapors so that any explosive levels do not exceed twenty percent (20%) of the lower explosive limit for the regulated substance; and

(iii) Tanks have an opening or openings installed which comprise a minimum of ten percent (10%) of the total tank surface area. Such openings will not be considered openings if they are in contact or contiguous with the ground or surface on which the tank may be resting; or

2. Subparts 1(i) and (ii) of this subparagraph have been complied with and there are no remaining USTs either in use or in a temporarily closed condition at the facility; or

3. Tanks which are removed from a UST facility and are intended for reuse at the same or another facility as USTs may be stored at a UST facility if the owner, ~~and/or~~ operator, and/or other responsible party meets the conditions described in subparts 1(i) and (ii) of this subparagraph, and either removes the tank off-site from a UST facility or puts it back into service within thirty (30) days of excavation.

(g) Tanks shall be stored in a manner which does not pose safety hazards. Tanks shall be stored in a position with the tank's center of gravity closest to the ground. Tanks shall not be stacked. Tanks shall be secured so that they will not roll or slide across a level or sloping ground surface.

[NOTE: Transportation and disposal of tanks will be subject to all applicable Federal, State, and local laws and regulations concerning the safe transportation and proper disposal of such materials.]

(5) Assessing the site at tank closure, tank compartment closure or change-in-service. The required site assessment shall be performed after receipt of division approval of either an Application for Permanent Closure of Underground Storage Tank System(s) or an Application for Closure of Tank Compartment(s), but before completion of either the permanent closure, tank compartment closure or a change-in-service. The required site assessment shall be performed in accordance with guidance provided by the division.

(a) Before permanent closure of a tank or a tank compartment or a change-in service is completed, owners, ~~and/or~~ operators, and/or other responsible parties shall measure for the presence of a release where contamination is most likely to be present at the UST site. Sampling shall meet the following requirements:

1. In selecting sample types, sample locations, and measurement methods, owners, ~~and/or~~ operators, and/or other responsible parties shall consider the method of closure, the nature of the stored substance, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence of a release.

2. At least one day before samples are taken, the owner, ~~and/or~~ operator, and/or other responsible party shall notify the division concerning the schedule for sample collection.

(b) Results of all samples taken during change in service or closure of the underground storage tank system or closure of a tank compartment shall be reported to the division within sixty (60) days of collection. Samples shall not be taken while the underground storage tank system is in operation, except when tank compartment closure is being conducted in accordance with paragraph (3) of this rule. Sample results shall be submitted as an attachment to either a Permanent Closure Report for Underground Storage Tank Systems or a Permanent Closure Report for Tank Compartments.

(c) The Permanent Closure Report for Underground Storage Tank Systems shall be submitted in a format established by the division. The Permanent Closure Report for Underground Storage Tank Systems shall be completed in accordance with the instructions provided by the division.

(d) The Permanent Closure Report for Tank Compartments shall be submitted in a format established by the division. The Permanent Closure Report for Tank Compartments shall be completed in accordance with the instructions provided by the division.

(e) The report, either the Permanent Closure Report for Underground Storage Tank Systems or the Permanent Closure Report for Tank Compartments, shall include, but not be limited to, the following information:

1. The facility identification number assigned to the facility by the division;

2. Facility name and address;

3. An updated post-closure site map;

4. Sampling, including field screening and laboratory analytical results;

5. Information concerning the removal, storage and/or disposal of tanks, piping and other ancillary underground equipment; and

6. Information concerning the removal, remediation and/or disposal of petroleum, petroleum waste, petroleum contaminated soil and/or ground water.

(f) If contaminated soils, contaminated ground water, or free product as a liquid or vapor is discovered under subparagraph (a) of this paragraph, or by any other manner, owners, ~~and/or~~ operators, and/or other responsible parties shall begin release response and corrective action in accordance with rule 1200-01-15-.06.

(6) Applicability to previously closed UST systems. When directed by the division, the owner, ~~and/or~~ operator, and/or other responsible party of an UST system permanently closed before December 22, 1988 shall assess the site and close the UST system in accordance with this rule if releases from the UST may, in the judgment of the division, pose a current or potential threat to human health and the environment.

(7) Closure records. Owners, ~~and/or~~ operators, and/or other responsible parties shall maintain records in accordance with rule 1200-01-15-.03(2) that are capable of demonstrating compliance with closure requirements under this rule. The results of the site assessment required in paragraph (5) of this rule shall be maintained for at least three (3) years after completion of permanent closure or change-in-service in one of the following ways:

(a) By the owners, ~~and/or~~ operators, and/or other responsible parties who took the UST system out of service;

(b) By the current owners, ~~and/or~~ operators, and/or other responsible parties of the UST system site; or

(c) By mailing these records to the division if they cannot be maintained at the closed facility.

## APPENDIX 1200-01-15-.07 – A
## REMOVAL OF UNDERGROUND TANKS

(1) Preparation.

(a) Drain product piping into the tank, being careful to avoid any spillage. Cap or remove product piping.

(b) Remove liquids and residues from the tank by using explosion-proof or air-driven pumps. Pump motors and suction hoses shall be bonded to the tank or otherwise grounded to prevent electrostatic ignition hazards. It may be necessary to use a hand pump to remove the last few inches of liquid from the bottom of the tank.

NOTE: (The Federal Resource Conservation and Recovery Act (RCRA) 42 U.S.C. Section 6901 et seq., and the Tennessee Hazardous Waste Management Act (HWMA) Part 1 T.C.A. § 68-212-101 et seq. place restrictions on disposal of certain residues that may be present in some underground storage tanks. Residues from tanks that have held leaded gasoline should be treated with extreme caution. Lead compounds and other residues in the tank may be classified as hazardous wastes).

(c) Excavate to the top of tank.

(d) Remove the fill pipe, gauge pipe, vapor recovery truck connection, submersible pumps, and other tank fixtures. Remove the drop tube, except when it is planned to vapor-free the tank by using an eductor. Cap or remove all non-product lines, such as vapor recovery lines, except the vent line. The vent line shall remain connected until the tank is purged. Temporarily plug all other tank openings so that all vapors will exit through the vent line during the vapor-freeing process.

(2) Purging.

(a) Remove flammable vapors by one of the methods described in subparagraphs (b) through (e) of this paragraph, or as required by local codes. These methods provide a means for temporary vapor-freeing of the tank atmosphere. However, it is important to recognize that the tank may continue to be a source of flammable vapors even after following the vapor-freeing procedures described in subparagraphs (b) through (e) of this paragraph. For this reason, caution shall always be exercised when handling or working around tanks that have stored flammable or combustible liquids. Before initiating work in the tank area or on the tank, a combustible gas indicator shall be used to assess vapor concentrations in the tank and work area. All work shall be done in accordance with Paragraph (3), "Testing".

(b) Vent all vapors from the tank at a minimum height of twelve (12) feet above grade and three (3) feet above any adjacent roof lines until the tank is purged of flammable vapors. The work area shall be free from sources of ignition.

(c) Flammable and combustible vapors may be purged with an inert gas such as carbon dioxide ($CO_2$) or nitrogen ($N_2$). This method is not to be utilized if the tank is to be entered for any reason, as the tank atmosphere will be oxygen deficient. The inert gas is to be introduced through a single tank opening at a point near the bottom of the tank at the end of the tank opposite the vent. When inert gases are used, they shall be introduced under low pressure to avoid the generation of static electricity. When using $CO_2$ or $N_2$, pressures in the tank shall not exceed five (5) pounds per square inch gauge.

Caution: The process of introducing compressed gases into the tank may create a potential ignition hazard as the result of the development of static electrical charges. The discharging device shall therefore be grounded. Explosions have resulted from the discharging of $CO_2$ fire extinguishers into tanks containing a flammable vapor-air mixture. $CO_2$ extinguishers shall not be used for inerting flammable atmospheres.

(d) If the method described in (c) is not practical, the vapors in the tank may be displaced by adding solid carbon dioxide (dry ice) to the tank in the amount of at least 1.5 pounds per one hundred (100) gallons of tank capacity. The dry ice should be crushed and distributed evenly over the greatest possible area in the tank to promote rapid evaporation. As the dry ice vaporizes, flammable vapors will flow out of the tank and may surround the area. Therefore, where practical, plug all tank openings except the vent after introducing the solid $CO_2$ and continue to observe all normal safety precautions regarding flammable or combustible vapors. Make sure that all of the dry ice has evaporated before proceeding.

(e) Flammable vapors may be exhausted from the tank by one of two methods of tank ventilation listed below:

1. Ventilation using an eductor-type air mover usually driven by compressed air. The eductor-type air mover shall be properly bonded to prevent the generation and discharge of static electricity. When using this method, the fill (drop) tube shall remain in place to ensure ventilation at the bottom of the tank. Tanks equipped with fill (drop) tubes that are not removable should be purged by this method. An eductor extension shall be used to discharge vapors a minimum of twelve (12) feet above grade and at least three (3) feet above any adjacent roof line.

2. Ventilation with a diffused air blower. When using this purging method, it is imperative that the air-diffusing pipe is properly bonded to prevent the discharge of a spark. Fill (drop) tubes shall be removed to allow proper diffusion of the air in the tank. Air supply should be from a compressor that has been checked to ensure a clean air supply and is free from volatile vapors. Air pressure in the tank shall not exceed five (5) pounds per square inch gauge.

(3) Testing.

(a) The tank atmosphere and the excavation area are to be regularly tested for flammable or combustible vapor concentrations until the tank is removed from both the excavation and the site. Such tests are to be made with a combustible gas indicator which is properly calibrated according to the manufacturer's instructions and which is thoroughly checked and maintained in accordance with the manufacturer's instructions. Persons responsible for testing shall be completely familiar with the use of the instrument and the interpretation of the instrument's readings.

(b) The tank vapor space is to be tested by placing the combustible gas indicator probe into the fill opening with the drop tube removed. Readings should be taken at the bottom, middle, and upper portions of the tank, and the instrument should be cleared after each reading. If the tank is equipped with a non-removable fill tube, readings are to be taken through another opening. Liquid product shall not enter the probe. Readings of twenty percent (20%) or less of the lower flammable limit shall be obtained before the tank is considered safe for removal from the ground.

(c) Tanks purged with an inert gas shall be sampled with an oxygen indicator and the oxygen content shall be considered while interpreting combustible gas indicator results.

(4) Removal.

(a) After the tank has been freed of vapors and before it is removed from the excavation, plug or cap all accessible holes. One plug shall have a one-eighth of an inch vent hole to prevent the tank from being subjected to excessive differential pressure caused by temperature changes. The tank shall always be positioned with this vent plug on top of the tank during subsequent transport and storage.

(b) Excavate around the tank to uncover it for removal. Remove the tank from the excavation and place it on a level surface. Use wood blocks to prevent movement of the tank after removal and prior to loading on a truck for transportation. Use screwed (boiler) plugs to plug any corrosion holes in the tank shell.

(c) Precautions shall be taken to assure any vapors left in the tank do not reach a combustible level. If this situation occurs, the tank shall be purged according to paragraph (2) of this appendix.

(d) Before the tank is removed from the site, the tank atmosphere shall be checked with a combustible gas indicator to ensure that it does not exceed twenty percent (20%) of the lower flammable limit.

(e) The tank shall be secured on a truck for transportation to the storage or disposal site with the one-eighth of an inch vent hole located at the uppermost point on the tank. Tanks shall be transported in accordance with all applicable local, state, and federal laws and regulations.

(f) Tanks shall be labeled after removal from the ground but prior to removal from the site. Regardless of the condition of the tank, the label shall contain a warning against certain types of reuse. The former contents and present vapor state of each tank, including vapor-freeing treatment and data shall also be indicated. The label shall be similar to the following in legible letters at least two (2) inches high:

Tank Has Contained Leaded Gasoline*

Not Vapor Free

Not Suitable For Storage Of Food Or Liquids

Intended For Human Or Animal Consumption

Date Of Removal: Month/Day/Year

*Or other flammable/combustible liquid. Use the applicable designation, for example, diesel.

Tanks that have held leaded motor fuels (or whose service history is unknown) shall also be clearly labeled with the following information:

Tank Has Contained Leaded Gasoline

Lead Vapors May Be Released If Heat

Is Applied To The Tank Shell

(5) Storage Of Used Tanks.

Storage Procedures.

(a) Tanks shall be vapor-freed before being placed in storage. Tanks shall also be free of all liquids and residues. All tank openings shall be tightly plugged or capped, with one plug having a one-eighth of an inch vent hole to prevent the tank from being subjected to excessive differential pressure caused by temperature changes. Tanks shall be stored with the vented plug at the highest point on the tank. All tanks shall be labeled.

(b) Used tanks shall be stored in secure areas where the general public will not have access.

Authority: T.C.A. §§ 68-215-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|---|---|---|---|---|---|
| Mayor Allen Barker | | | | | |
| Jonathan M. Edwards | | | | | |
| Sharon O. Jacobs | | | | | |
| Bhag Kanwar | | | | | |
| John Owsley | | | | | |
| DeAnne Redman | | | | | |
| Larry R. Reynolds | | | | | |
| Jon Roach | | | | | |
| Vacant | | | | | |

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Petroleum Underground Storage Tank Board on 04/27/2011, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/23/10

Rulemaking Hearing(s) Conducted on: (add more dates). 01/20/11

Date: April 27, 2011

Signature: _____

Name of Officer: Jonathan M. Edwards

Title of Officer: Chairman

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

_____
Robert E. Cooper, Jr.
Attorney General and Reporter

_____
Date

**Department of State Use Only**

Filed with the Department of State on: _____

Effective on: _____

_____

Tre Hargett
Secretary of State

**Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: A commenter felt the definition of motor fuel should be a standalone rule.

Response: The Board maintains that the definition of motor fuel falls under the Housekeeping rules as it simply clarifies the definition to include new fuel types that are regulated and therefore does not need to be a standalone rule.

Comment: A commenter felt that the requirement for motor fuel dispensers to be UL listed and the requirement that owners of UST systems, containing greater than 10% alcohol, submit documentation of compatibility should both be part of the other proposed rule package.

Response: The motor fuel dispenser requirement is an E85 issue that was addressed by an EPA requirement regarding the new UL Listing and that is the reason it was added to these housekeeping rules.

The compatibility documentation is also an E85 issue. The proposed rules only require verification of compatibility on new installations, as the Division has previously required it as a matter of interpretation of existing rules. The proposed rule does not limit the tank owner from using fuels with greater than 10% ethanol; it simply asks for verification that the components of the new system are compatible. It is the express intent of Tennessee Petroleum Underground Storage Tank Act, at T.C.A. § 68-215-102, to provide for the safe storage of petroleum products. This proposed rule simply verifies that the product stored is compatible with the system components.

Comment: A commenter felt that the UST program does not regulate dispensers and that dispenser requirement should be left out of the Rule change.

Response: The motor fuel dispenser requirement is an E85 issue with regard to the new UL Listing and that is the reason it was added to the housekeeping rules. Also, the existing rules regulate the use of ancillary equipment and the dispenser is part of this ancillary equipment. If the rules did not regulate ancillary equipment, then releases from the dispenser would not be covered by the fund.

**Regulatory Flexibility Addendum**
Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

All businesses owning underground storage tanks are affected by the amendment, however the Board does not expect there to be any cost to small businesses or any real benefit. These are basic housekeeping rules, to clarify the existing rules.

(2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The Board does not anticipate any administrative costs from these basic housekeeping rules, to clarify the existing rules.

(3) A statement of the probable effect on impacted small businesses and consumers.

The Board does not anticipate any impact on small businesses or consumers. These are basic housekeeping rules.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There is no burden or cost on the tank owner, so there is no need for an alternative. These are basic housekeeping rules, to clarify the existing rules.

(5) A comparison of the proposed rule with any federal or state counterparts.

These rule changes are a clarification of the existing rules to bring them more in line with the federal rules.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exempting small businesses from all or any part of these clarifying changes to the existing rules would prevent them from having the benefit of the clarifications.

**Impact on Local Governments**

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

(Insert statement here)

The Department anticipates that these amended rules will not have a financial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

**(A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Proposed Rule 1200-01-15-.01 amends the definition of "motor fuel" to clarify that biodiesel and ultra low sulphur diesel are included in the definition. Rule 1200-01-15-.02 makes it clear that motor fuel dispensers for petroleum substances with greater than 10% ethanol are to be listed by Underwriters Laboratories for dispensing high alcohol content and are to have been manufactured after June 24, 2010. Part (1)(a)3 of Rule 1200-01-15-.03 is being added to make it clear that compatibility documentation is required for new systems being installed that contain petroleum substances with greater than 10% ethanol. Paragraph (2) of Rule 1200-01-15-.03 and Rule 1200-01-15-.07 are amended to allow "other responsible parties" to close USTs as are owners and/or operators.

**(B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This amendment is promulgated under the authority of T.C.A. 68-215-101 et seq. -- Tennessee Petroleum Underground Storage Tank Act, as amended by the 2008 UST Act.

**(C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All businesses owning and/or operating petroleum underground storage tank are affected by this rule.

**(D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Petroleum Underground Storage Tank Board is not aware of any.

**(E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

No increase or decrease is anticipated because this rule change is a clarification of existing rules.

**(F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Rhonda Key
Division of Underground Storage Tanks
4th Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243-1541

**(G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan Leiserson
Legal Services Director
Department of Environment and Conservation

**(H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L&C Tower
Nashville, Tennessee 37243-1548
Phone: (615) 532-0131
Alan.Leiserson@tn.gov

**(I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

The Petroleum Underground Storage Tank Board is not aware of any.