

Notice  
of Rulemaking Hearing  
Department of Environment and Conservation  
Division of Underground Storage Tanks

The Tennessee Petroleum Underground Storage Tank Board will hold public hearings to receive comments concerning amendments to the Rules of the Department of Environment and Conservation Division of Underground Storage Tanks Chapter 1200-1-15 Underground Storage Tank program pursuant to T.C.A. § 68-215-113. These hearings will be conducted as prescribed by the Uniform Administrative Procedures Act T.C.A. § 4-5-201 et. seq.

The first hearing will take place in the 17<sup>th</sup> Floor Conference Room at the L & C Tower, 401 Church Street, Nashville, Tennessee at 1:00 P.M. CST on Monday, September 19, 2005.

The second hearing will take place in the Ayers Auditorium in the McWherter Center at Jackson State Community College, 2046 North Parkway (Highway 412), Jackson, Tennessee at 9:00 A.M.. CST on Friday, September 23, 2005.

The third such hearing will take place in the Community Room at the Knox County Health Department, 140 Dameron Avenue, Knoxville 37917 at 9:00 A.M. EST on Tuesday, September 27, 2005.

Written comments will be considered if received by close of business, October 14, 2005, at the office of the Technical Secretary, Tennessee Petroleum Underground Storage Tank Board, 4<sup>th</sup> Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1531.

Individuals with disabilities wishing to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten days prior to the date of the hearing or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation Kim McCrary, ADA Coordinator, 12th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-0437, 615-532-0211.

For complete copies of the text of the notice, please contact Donna Washburn, Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, 4<sup>th</sup> Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1531, 615-532-0987. Copies may also be obtained at the Environmental Assistance Centers for the Department of Environment and Conservation, which can be reached by calling 1-888-891-TDEC(8332). The notice and copies of the proposed rules are posted on the web site for the Division of Underground Storage Tanks, <http://www.state.tn.us/environment/ust>.

Substance of Proposed Rules

Paragraph (3) Definitions of rule 1200-1-15-.01 Program Scope and Minimum Requirements for Tanks is amended by inserting the following definitions in alphabetical order and renumbering the definitions accordingly:

“Containment sump” means a liquid-tight compartment that provides containment of any product releases. Containment sumps are typically used underneath product dispensers and/or for enclosing the submersible turbine pump and piping connections at the top of an underground storage tank.

“Continuous In-Tank Leak Detection System” means a release detection system that allows an underground storage tank to operate continuously or nearly continuously without interruption for release detection tests. However, the system may default to a standard or shut down test, requiring

the tank to be taken briefly out of service at the end of the month if sufficient good data has not been obtained over the month. These methods include Continuous Automatic Tank Gauging Systems and Continual Reconciliation Systems.

“Dispenser” means a device that discharges petroleum products from underground storage tanks into tanks in motorized vehicles, equipment tanks, or other containers, while simultaneously measuring the amount of petroleum dispensed.

“Flexible piping” means piping constructed of flexible thermoplastic material that is typically installed in one continuous run with no inaccessible joints.

“Secondary containment” means a system designed and installed so that any material that is released from the primary containment is prevented from reaching the soil or groundwater outside the system.

“Submersible Turbine Pump” or “STP” means pump located inside a petroleum underground storage tank, positioned near the bottom of the tank, thereby “submerged” in the petroleum.

Paragraph (8) Scope of Fund Coverage of rule 1200-1-15-.09 is amended as follows:

Subparagraph (b) is amended by deleting “parts 1., 2., or 3.” And replacing it with “parts 1 through 6”.

Subparagraph (b) is further amended by the addition of Part 6 as set forth below:

- 6. If the date of the release was on or after July 1, 2005, the financial responsibility requirements for fund eligible owners or operators or petroleum site owners for taking corrective action shall be twenty thousand dollars (\$20,000) and compensation of third parties shall be twenty thousand dollars (\$20,000).

Subparagraph (8)(b) is further amended by adding the following row to the bottom of Table 3, Owner/Operator Financial Responsibility per Site per Occurrence:

On or After July 1, 2005	\$20,000 Clean-up/ \$20,000 third party	\$20,000 Clean-up/ \$20,000 third party	\$20,000 Clean-up/ \$20,000 third party
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A new Subparagraph (d) is added as follows:

- (d) If the date of the release is on or after September 1, 2005, the owner and/or operator may apply for a reduction of the financial responsibility requirement for corrective action set forth in part (b)6. of this paragraph. Application shall be made using a format established by the division and in accordance with instructions provided by the division.

- 1. The tank owner and/or operator must demonstrate to the satisfaction of the division that each UST system at the facility meets or exceeds the criteria for reduction of the financial responsibility amount set forth in the table in this subparagraph. Such demonstration may include, but not be limited to:

- (i) Submittal of verifying documentation to the division; and/or

- (ii) On-site verification by the division.

2. For each criterion met there shall be an associated reduction in the financial responsibility amount. However, the maximum percentage reduction in the financial responsibility amount per occurrence shall not exceed fifty percent (50 %).

CRITERIA	PERCENTAGE REDUCTION
Double Wall Tank(s)	10 %
Secondary Containment Chase Piping Enclosing Fiberglass Primary Piping or Flexible Plastic Piping with Containment Sumps at Piping Joints	10 %
Containment Sumps at Submersible Turbine Pumps	10 %
Containment Sumps under Dispensers	10 %
Continuous In-Tank Leak Detection System	10 %

3. If a criterion is not applicable to one or more of the UST systems at the facility, then the conditions of part 1 of this subparagraph shall have been met if every UST systems at the facility for which the criterion is applicable meets that criterion. For example, the criterion for a containment sump under a dispenser is not applicable to a UST system used to store waste oil or used oil.
4. Upon confirmation by the division that a tank owner and/or operator has met one or more of the criteria for reduction of the financial responsibility amount set forth in the table in this subparagraph, the tank owner and/or operator will be sent correspondence setting forth the new reduced financial responsibility amount.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Department of Environment and Conservation.

Stanley R. Boyd  
Stanley R. Boyd  
Technical Secretary  
Tennessee Petroleum Underground Storage Tank Board

Subscribed and sworn to before me this the 26<sup>th</sup> day of July, 2005.

Deidre Warner  
Notary Public

My commission expires the 24<sup>th</sup> day of November, 2007.



The notice of rulemaking set out herein was properly filed in the Department of State on the 27 day of July, 2005.

Riley C. Darnell  
Riley C. Darnell  
Secretary of State

By: Monda

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