

DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF UNDERGROUND STORAGE TANKS

Statement of Necessity Requiring Emergency Rules

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Pursuant to T.C.A. § 4-5-208, the Tennessee Petroleum Underground Storage Tank Board is promulgating emergency rules addressing nonmetallic underground piping connected to petroleum underground storage tanks. The emergency rules are necessary to prevent the use of nonmetallic flexible piping that does not meet the Underwriters Laboratories revised standard (UL 971, July 1, 2005) for nonmetallic piping in the state of Tennessee for new underground storage tank system installations and/or for replacement of existing underground piping, so that releases of petroleum to the environment can be prevented.

The Tennessee Petroleum Underground Storage Tank Board has made a finding that there is an emergency creating a danger to public health, safety and the environment as well as a threat of increased expenditures from the Tennessee Petroleum Underground Storage Tank Fund. The nature of this danger is such that the use of any other form of rulemaking would not adequately protect the public.

Underwriters Laboratories issued a revised standard (UL 971) for nonmetallic piping on July 1, 2005. Hundreds of underground storage tank facilities in the United States have experienced problems with nonmetallic flexible piping that does not comply with the revised standard (UL 971). These problems range from early detection of visible changes in the appearance of the piping to actual releases of petroleum products into the environment due to piping deterioration. Some states have already taken action to prevent the future use of nonmetallic flexible piping that does not comply with the revised standard (UL 971). Several other states are in the process of putting such requirements in place. Three of these states are in the southeastern United States, two of them share a border with Tennessee. As the marketplace for non-compliant piping is decreased one state at a time, those states that do not have restrictions in place could become the marketplace of last resort for companies with existing stock of nonmetallic flexible piping that does not comply with the revised standard (UL 971). Without an emergency rule to eliminate the use of this piping in Tennessee, there could be many more underground storage tank facilities in Tennessee with this non-compliant underground piping conveying petroleum products into and out of petroleum underground storage tanks.

Therefore, unless emergency rules that establish requirements for nonmetallic flexible piping are adopted, there could be an increased risk to human health, safety and the environment due to the continued use of certain types of nonmetallic flexible piping. Furthermore, the Tennessee Petroleum Underground Storage Tank Fund would be adversely impacted due to clean-up costs associated with releases to the environment from nonmetallic flexible piping that does not comply with the revised standard (UL 971).

Hugh M. Calloway, Jr.
Chairman
Tennessee Petroleum Underground Storage Tank Board

Emergency Rules
of the
Department of Environment and Conservation
Division of Underground Storage Tanks

Chapter 1200-1-15
Underground Storage Tank Program

Amendments

Rule 1200-1-15-.02 UST Systems: Design, Construction, Installation and Notification is being amended as follows:

Subparagraph (b) of paragraph (1) is amended by deleting and replacing part 1 and by making other minor changes so that subparagraph (b) shall read as follows:

(b) Piping. The piping that routinely contains petroleum and is in contact with the ground shall be properly designed, constructed and protected from corrosion in accordance with one of the parts of this subparagraph.

1. Piping, whether rigid or flexible in design, that is constructed of nonmetallic materials, and complies with subparts (i) and (ii) of this part.

(i) Piping installed on or after the effective date of this rule shall meet or exceed the Standard for Safety established by Underwriters Laboratory in UL 971 - "Non-Metallic Underground Piping for Flammable Liquids", July 1, 2005. This requirement shall apply to all new and/or replacement piping.

(ii) Pipe marking or labeling shall comply with the Underwriters Laboratory standard referenced in subpart (i) of this part. Piping shall, at a minimum, be permanently and legibly marked with the following information at ten (10) foot intervals:

(I) The manufacturer's name, trade name, trademark, or other information that identifies the manufacturer;

(II) Manufacturing date, or a verifiable date code, accurate to at least the quarter of a year in which the pipe was manufactured;

(III) The nominal size of the pipe and a number identifying the pipe, such as a catalog, model or part number;

(IV) The maximum pressure rating (psig) and the statement: Underground Use Only;

(V) The type of pipe system(s), which may be abbreviated, and which may include, but not be limited to:

I. Primary Carrier;

II. Secondary Containment;

- III. Integral Primary/Secondary;
 - IV. Normal Vent; and/or
 - V. Vapor Recovery;
 - (VI) The flammable liquid group rating(s), which may be abbreviated, and which may include, but not be limited to:
 - I. Motor Vehicle Fuels;
 - II. Concentrated Fuels;
 - III. High Blend Fuel; and/or
 - IV. Aviation and Marine Fuels.
2. Piping that is constructed of steel and is cathodically protected in the following manner:
- (i) The piping is coated with a suitable dielectric material;
 - (ii) Field-installed cathodic protection systems are designed by a corrosion expert;
 - (iii) Impressed current systems are designed to allow determination of current operating status as required in rule 1200-1-15-.03(2)(c); and
 - (iv) Cathodic protection systems are operated and maintained in accordance with rule 1200-1-15-.03(2) or in a manner determined by the Division to provide equivalent protection against corrosion.
3. The piping is constructed of metal without additional corrosion protection measures provided that:
- (i) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operational life; and
 - (ii) Owners and/or operators maintain records that demonstrate compliance with the requirements of subpart (b)3(i) of rule 1200-1-15-.02(1) for the remaining life of the piping; or
4. The piping construction and corrosion protection are determined by the Division to be designed to prevent the release or threatened release of any stored petroleum in a manner that is no less protective of human health and the environment than the requirements in parts (b)1 through 3 of rule 1200-1-15-.02(1).

Rule 1200-1-15-.02 is being further amended by adding a new paragraph, to be designated as paragraph 1200-1-15-.02(4), which shall read:

- (4) Replacement piping.

Any underground piping installed to replace existing piping shall meet the requirements set forth in subparagraph (1)(b) of this rule.

Authority: T.C.A. §68-215-107 et seq. and T.C.A. §4-5-201 et seq. Administrative History: Original rule filed March 1, 1990; effective April 15, 1990. Amendment filed July 3, 1991; effective August 17, 1991. Amendment filed July 28, 1995; effective October 10, 1995. Amendment filed February 4, 1998; effective April 20, 1998. Amendment filed March 6, 2000, effective date May 20, 2000. Amendment filed August 11, 2005; effective October 25, 2005. Emergency rule filed _____; effective _____.

The emergency rules set out herein was properly filed in the Department of State on the 28th day of October, 2005 and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 11th day of April, 2006.