

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 hearing will take place in the 17th Floor Conference Room at the L & C Tower, 401 Church Street, Nashville, Tennessee at 9:30 A.M. CST on Wednesday, December 21, 2005.

Written comments will be considered if received by close of business, January 4, 2006, at the office of the Technical Secretary, Tennessee Petroleum Underground Storage Tank Board, 4th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1531. Written comments may also be submitted by e-mail to Donna.Washburn@state.tn.us.

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, 4th 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

Amendments

Rule 1200-1-15-.02 UST Systems: Installation and Operation is amended by deleting part (1)(b)1 in its entirety and replacing it with the following:

1. The piping, whether rigid or flexible in design, is constructed of nonmetallic materials.
 - (i) Piping installed on or after the effective date of the emergency rule shall meet or exceed the Standard for Safety established by Underwriters Laboratory in UL 971 - "Nonmetallic 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.

Authority: T.C.A. § 68-215-107 and T.C.A. §§4-5-201 et seq.

New Rule

Rule Chapter 1200-1-15 is amended by adding the following item in the Table of Contents and the following text for the new rule:

1200-1-15-.13 Voluntary Registry

The substance of Rule 1200-1-15-.13 Voluntary Registry, which is authorized and required by T.C.A. § 68-215-130. Voluntary registry for persons who own an interest in petroleum sites., is:

- (1) Registration

- (a) Any person that owns an interest in a petroleum site, including without limitation, owners in fee simple and holders, as defined in rule 1200-1-15-.01(4), may register with the voluntary registry maintained by the division.
 - (b) Any person intending to become a registrant shall register by completing and submitting to the division the registration form designated by the division. The form shall be completed accurately and in its entirety in accordance with instructions provided by the division. At a minimum the registration form shall provide:
 - 1. Name, address and phone number of the person submitting the registration form, and
 - 2. The facility identification number assigned to the UST facility by the division and the location and/or the address of the facility.
 - (c) Notification of Registration in the Voluntary Registry shall be dispatched as set forth in parts 1 and 2 of this subparagraph.
 - 1. The registrant shall be notified by the division of current registration in the Voluntary Registry. This notification shall also set forth the due date for the annual fee for renewal of registration.
 - 2. The owner of the tanks at the facility provided in the registration form shall be sent notification of the registration in the Voluntary Registry. The notification shall inform the tank owner that the registrant shall be sent copies of all notices sent to the tank owner in accordance with paragraph 3 of this rule.
 - (d) Registration shall be amended by the registrant whenever the pertinent information contained in the registration form has changed by re-submitting to the division a registration form with revised information.
- (2) Fees
- (a) All registrants shall pay an annual fee of \$500 per site.
 - (b) The annual fee shall be paid upon initial registration and on each anniversary of such initial registration date thereafter until the registration is removed or withdrawn as provided in this rule.
 - 1. Each year, the department shall send the registrant an invoice at least sixty (60) days prior to the annual fee due date.
 - 2. If the registrant has not renewed the annual registration for the subsequent year, the department shall send the registrant a second invoice by certified mail at least thirty (30) days prior to the fee due date.
 - (c) The division may remove a registrant from the Voluntary Registry in the event that the annual fee is not paid when due, the registrant shall be notified that he has been removed from the Voluntary Registry. Restoration to the Voluntary Registry shall be accomplished by fee payment and submittal of a new registration form.
- (3) Notices to Registrants

- (a) A copy of each notice issued to the tank owner, tank operator or petroleum site owner by the division, which concerns the underground storage tank facility provided in the registration form in accordance with part (1)(b)2 of this rule, shall be sent to the registrant.
 - (b) Each copy of a notice to the registrant shall be sent by the division simultaneously with the original notice to the owner and/or operator or petroleum site owner, and delivered in the same manner as the original notice.
 - (c) Notices to be copied to the registrant include, but are not limited to, invoices for tank and/or compartment fees, letters establishing deadlines for compliance with release response requirements, notices of violation and notices relating to loss of fund eligibility.
 - (d) Copies of notices sent to the registrant shall be sent to the current address appearing in the registration, as amended by the registrant due to change of address.
- (4) Withdrawal of Registration
- (a) A registrant may have their name removed from the Voluntary Registry at any time by requesting removal in writing.
 - (b) An owner and/or operator of a UST on a petroleum site or the owner of the petroleum site may petition the division for removal of a registration if such owner and/or operator or petroleum site owner can demonstrate that the registrant does not have a current interest in that petroleum site. Prior to making any determination on the removal of a registration based on the petition of the owner or operator or petroleum site owner, the division shall notify the registrant and the registrant shall have an opportunity to confirm its current interest in the petroleum site.
 - (c) A registrant whose only interest in a petroleum site is as a holder shall withdraw or otherwise approve the removal of its registration no later than thirty (30) days following the satisfaction of the secured debt.

Authority: T.C.A. §§68-215-107, 68-215-130 and T.C.A. §§4-5-201 et seq.

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 27th day of October, 2005.



Deidre Warner
Notary Public

My commission expires the ___ day of ___, 20__.

My Commission Expires NOV. 24, 2007

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

Riley C. Darnell
Riley C. Darnell
Secretary of State

By: mm

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