

Rulemaking Hearing Rules
of the
Tennessee Petroleum Underground Storage Tank Board

Chapter 1200-1-15
Underground Storage Tank Program

Amendments

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.

Authority: T.C.A. §§68-215-101 et. seq., and 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 March 6, 2000, effective May 20, 2000. Amendment filed August 11, 2005; effective October 25, 2005. Public necessity rule filed August 19, 2005; effective through February 10, 2006. Amendment filed _____; effective _____.

Paragraph (8) Scope of Fund Coverage of rule 1200-1-15-.09 Administrative Guidelines and Procedures for the Tennessee Petroleum Underground Storage Tank Fund 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.

Authority: T.C.A. §§68-215-107 and 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 November 24, 1992; effective January 9, 1993. Amended by Public Chapter 467; effective May 31, 1993. Amendment filed July 28, 1995; effective October 10, 1995. Amendment filed August 6, 1996; effective October 20, 1996. Amendment filed February 4, 1998; effective April 20, 1998. Amendment filed March 6, 2000; effective May 20, 2000. Amendment filed August 11, 2005; effective October 25, 2005. Public necessity rule filed August 19, 2005; effective through February 10, 2006. Amendment filed _____; effective _____.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of November, 2005 and will become effective on the 12th day of February, 2006.