

Rules of
Department of Natural Resources
Division 100—Petroleum Storage Tank Insurance Fund
Board of Trustees
Chapter 4—Participation Requirements

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

**Division 100—Petroleum Storage Tank
Insurance Fund Board of Trustees
Chapter 4—Participation Requirements**

**10 CSR 100-4.010 Participation Requirements
for Underground Storage Tanks**

PURPOSE: This rule sets forth the procedures to be followed by owners or operators of underground storage tanks who wish to obtain insurance coverage from the Petroleum Storage Tank Insurance Fund, and establishes the annual participation fee which is required for coverage.

(1) Any owner or operator of an underground storage tank (UST) used to store petroleum may apply to participate in the fund, except that—

(A) Current or former refinery sites are not eligible for participation in the fund;

(B) Petroleum pipeline or marine terminals are not eligible for participation in the fund; and

(C) Owners and operators of hazardous substance UST systems, as defined in 10 CSR 20-10.012, may not obtain coverage for their hazardous substance UST systems.

(2) The following procedures shall be utilized to apply for insurance coverage for underground storage tanks which are in use or temporarily closed in accordance with 10 CSR 20-10.070:

(A) Any owner or operator who wishes to participate in the fund shall so indicate by applying for coverage on a form specified by the board;

(B) Applications shall include a certification that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the U.S. Environmental Protection Agency, and rules established by the Missouri Department of Natural Resources and the Missouri Department of Agriculture;

(C) An application form shall be submitted for each site for which an owner desires coverage;

(D) Applications shall include information on all tanks known to exist at the site, including aboveground storage tanks and underground storage tanks which contain a hazardous substance, or which are temporarily closed, out of use, or permanently closed in place;

(E) Applications shall include documentation as required by the board to demonstrate that the applicant has a reasonable assurance of the integrity of all USTs on the site which

are in use or temporarily closed. This documentation shall include:

1. A minimum of two (2) months' leak detection records;

2. Evidence that pressurized lines are equipped with line leak detectors which are in working order, unless the entire UST system is a double-wall system, and monitoring devices are adequate to detect a leak;

3. Evidence that the cathodic protection system, if any, is functioning properly;

4. Evidence that the tank lining, if any, has been properly installed and inspected according to accepted industry practices;

5. Evidence that the UST is equipped with corrosion protection and spill/overflow prevention devices, as required in 10 CSR 20-10;

6. Line and/or tank tightness tests, as required in 10 CSR 20-10; and

7. Any other documentation as may reasonably be required by the board;

(F) Applications shall also include documentation as required by the board in order to demonstrate that the applicant has the ability to pay the first ten thousand dollars (\$10,000) in the event he or she makes a claim for benefits from the fund.

1. For non-public entities, such documentation shall include:

A. A letter of credit for this amount from a federally-insured financial institution in the favor of the Petroleum Storage Tank Insurance Fund;

B. One (1) or more certificates of deposit which total this amount. The applicant shall submit documentation from the custodian of such certificates that assures the fund of their existence and preservation for the purposes described herein;

C. Financial statements indicating that the net worth of the applicant is at least one hundred thousand dollars (\$100,000), or that the applicant has at least fifty thousand dollars (\$50,000) working capital;

D. A written guarantee from another person or entity demonstrating the ability to pay this amount in a manner outlined in this rule. The provider of the guarantee shall disclose the relationship between that person or entity and the applicant;

E. A letter signed by an officer of a federally-insured financial institution attesting to the ability of the applicant to pay this amount; or

F. Any other method determined by the board to be reasonable and sufficient.

2. For public entities, documentation requirements are as follows:

A. Cities with a population greater than three thousand (3,000), none;

B. Cities participating in the State Revolving Loan Fund (SRF) administered by the Department of Natural Resources, none. The board will review documents submitted to the SRF, as needed;

C. Cities with a population of three thousand (3,000) or less, a copy of the most recent annual audit of the city's finances, or a current set of financial statements;

D. First class or second class counties, or charter counties, none;

E. Third class counties, a copy of the most recent annual audit of the county's finances, or a current set of financial statements; or

F. Schools, sewer districts, fire districts, and other similar entities, a copy of current financial statements; and

(G) The board shall review applications within thirty (30) days of receipt, and shall respond to such applications in writing with a notice of acceptance, a request for clarification or information, or a rejection of the application.

1. If the response is a notice of acceptance, it shall include the effective date and period of coverage.

2. If the response is a request for clarification or information, it shall specify a date by which the applicant must respond.

3. If the response is a rejection, it shall identify the additional information needed or list the reason(s) coverage is being denied. If the applicant submitted participation and/or one (1)-time fees with the application, the fees shall be returned or refunded.

(3) Procedures regarding payment of fees shall be as follows:

(A) Participation fees shall be paid by all applicants, as follows:

1. Double-wall or secondary containment tank and piping systems that meet the requirements of 10 CSR 20-10.020 (includes UST systems that have secondary containment of the tank and piping), shall be assessed one hundred dollars (\$100) per tank annually;

2. All other USTs shall be assessed one hundred twenty-five dollars (\$125) annually, except that a UST which has not been upgraded, as required by 10 CSR 20-10, and has been temporarily closed shall be assessed two hundred dollars (\$200) annually;

(B) In addition, at the time of initial application, the applicant shall pay an additional one hundred dollars (\$100) per tank, as required by section 319.129.2, RSMo, unless such fee has already been paid;

(C) If the required fees are not submitted with the application, and all other aspects of the application are acceptable, the board shall



notify the applicant of the amount of such fees which are due, and shall indicate that such fees are due and payable within fourteen (14) days. Failure by the applicant to submit such fees in a timely manner shall result in rejection of the application, and no coverage shall exist;

(D) In the event that participation in the fund is terminated prior to the end of the period of coverage, participation fees shall be refunded on the basis of the percentage of days remaining in the coverage period; and

(E) Any fund participant who owns fifty (50) or more petroleum storage tanks may pay participation fees in semiannual installments.

(4) Upon determination that an applicant has met the requirements for participation in the fund, the board shall issue a document to the applicant confirming that fact, and specifying the effective date of coverage and other terms and conditions of such coverage as the board may deem appropriate.

(A) The effective date of coverage shall be the date that the board receives evidence that all tanks and piping for which coverage is being sought are being operated in compliance with pertinent statutes and regulations, including evidence demonstrating a reasonable assurance that the underground storage tanks are not leaking.

(B) The document shall confirm that the fund is providing coverage for risks associated with sudden or non-sudden accidental releases arising from the operation of underground storage tanks, including costs of cleaning up such releases, third-party property damage, and third-party bodily injury, subject to the limits specified in sections 319.129 through 319.131, RSMo.

(C) The document shall include a cover page which identifies the person or persons being insured by the fund, the name and location of the business or operation where the tanks are located, and the specific tanks which are covered.

(D) For the purposes of coverage, as well as cancellation, nonrenewal of coverage or termination of coverage discussed elsewhere in this rule, 12:01 a.m. shall be the time of day that such actions become effective.

(5) In order to continue their participation in the fund, participants are required to renew their participation annually.

(A) The board shall notify participants approximately ninety (90) days in advance of the end of their coverage period, and shall invite participants to renew their coverage for another twelve (12)-month period of time.

(B) Participants shall submit such information as may be required by the board, including information specified in subsections (2)(D) and (2)(E) above, prior to the end of their coverage period.

(C) Any participant who fails to do so shall receive a notice from the board, giving the participant sixty (60) days to submit such information in order to continue participation in the fund. At the end of the sixty (60) days, if the participant has failed to submit the required information, coverage may be cancelled.

(D) Upon determination that the participant has met the requirements for continued participation in the fund, the board shall issue a document confirming that fact, and specifying the effective date of coverage and other terms and conditions of such coverage as the board may deem appropriate.

(E) In order to continue participation in the fund, participants shall pay such fees as are set forth in subsection (3)(A). If such fees are not submitted with the renewal application, and the application is accepted, the board shall notify the applicant of the amount of such fees which are due, and shall indicate that such fees are due and payable within ten (10) days. Failure by the applicant to submit such fees in a timely manner shall result in nonrenewal of coverage on the date that such fees were due.

(6) The following procedures shall be followed when there is a change of ownership, change of operator, or change of landowner:

(A) If, during the period of coverage as specified by the board, the owner of a UST changes, the fund participant or new owner shall notify the board in writing of such within thirty (30) days.

1. The fund will transfer coverage to the new owner, and will preserve the retroactive date of coverage for the site, if the new owner desires such and the previous owner consents to the transfer.

A. In order to effect such a transfer, the new owner shall provide to the board written confirmation that such a transfer is desired, and that the previous owner agrees to such a transfer, along with the effective date of such transfer. The board may specify a particular form on which this confirmation must be provided.

B. The new owner must provide evidence of ability to pay the first ten thousand dollars (\$10,000), as specified in subsection (2)(E) of this rule, which might be incurred if and when the owner makes a claim for benefits from the fund.

C. No additional participation fees shall be required to effect such a transfer;

(B) If, during the period of coverage as specified by the board, the operator of the UST changes, the owner shall notify the board in writing of the change and the effective date of such change. The board shall acknowledge the change in writing, which shall include notice of the effective date of termination of participation by the previous operator; and

(C) If, during the period of coverage as specified by the board, the owner of the real estate on which the tank(s) is located changes, the fund participant shall notify the board of the change at the time the participant renews coverage.

AUTHORITY: sections 319.129, 319.131, and 319.133, RSMo Supp. 1998. Original rule filed April 1, 1999, effective Nov. 30, 1999.*

**Original authority: 319.129, RSMo 1989, amended 1991, 1996, 1998; 319.131, RSMo 1989, 1991, 1994, 1995, 1996, 1998; and 319.133, RSMo 1989, amended 1991, 1996, 1998.*

10 CSR 100-4.020 Participation Requirements for Aboveground Storage Tanks

PURPOSE: This rule sets forth the procedures to be followed by owners or operators of aboveground storage tanks who wish to obtain insurance coverage from the Petroleum Storage Tank Insurance Fund, and establishes the annual participation fee which is required for coverage.

(1) Any owner or operator of an aboveground storage tank (AST) may apply to participate in the fund, except—

(A) Current or former refinery sites or petroleum pipeline or marine terminals are not eligible for participation in the fund.

(2) The following procedures shall be utilized to apply for insurance coverage for aboveground storage tanks which are in use:

(A) Any owner or operator who wishes to participate in the fund shall so indicate by applying for coverage on a form specified by the board;

(B) Applications shall include a certification that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the U.S. Environmental Protection Agency, and rules established by the Missouri Department of Natural Resources and the Missouri Department of Agriculture;

(C) An application form shall be submitted for each site for which an owner desires coverage;

(D) Applications shall include information on all tanks known to exist at the site, including underground storage tanks, hazardous substance tanks and aboveground storage tanks which are out of use;

(E) Applications shall include documentation as required by the board to demonstrate that the applicant has a reasonable assurance of the integrity of all aboveground storage tanks on the site which are in use or temporarily out of use. This documentation shall include:

1. A copy of a current Spill Prevention, Control and Countermeasure Plan, as described in 40 CFR Part 112;

2. A demonstration, performed within the previous twelve (12) months, that any pressurized piping which is connected to or part of the aboveground storage tank(s) for which coverage is being sought is liquid tight; and

3. Other documentation as may reasonably be required by the board;

(F) Applications shall also include documentation as required by the board in order to demonstrate that the applicant has the ability to pay the first ten thousand dollars (\$10,000) in the event he or she makes a claim for benefits from the fund. Such documentation shall include:

1. A letter of credit for this amount from a federally-insured financial institution in the favor of the Petroleum Storage Tank Insurance Fund;

2. One (1) or more certificates of deposit which total this amount. The applicant shall submit documentation from the custodian of such certificates that assures the fund of their existence and preservation for the purposes described herein;

3. Financial statements indicating that the net worth of the applicant is at least one hundred thousand dollars (\$100,000), or that the applicant has at least fifty thousand dollars (\$50,000) working capital;

4. A written guarantee from another person or entity demonstrating the ability to pay this amount in a manner outlined in this rule. The provider of the guarantee shall disclose the relationship between that person or entity and the applicant;

5. A letter signed by an officer of a federally-insured financial institution attesting to the ability of the applicant to pay this amount; or

6. Any other method determined by the board to be reasonable and sufficient; and

(G) The board shall review applications within thirty (30) days of receipt, and shall respond to such applications in writing with a notice of acceptance, a request for clarification

or information, or a rejection of the application.

1. If the response is a notice of acceptance, it shall include the effective date and period of coverage.

2. If the response is a request for clarification or information, it shall specify a date by which the applicant must respond.

3. If the response is a rejection, it shall identify the additional information needed or list the reason(s) coverage is being denied. If the applicant submitted participation and/or one (1)-time fees with the application, the fees shall be returned or refunded.

(3) Procedures regarding payment of fees shall be as follows:

(A) Participation fees shall be paid by all applicants, as follows:

1. Tanks less than twenty-five thousand (25,000) gallons shall be assessed one hundred dollars (\$100); and

2. Tanks of twenty-five thousand (25,000) gallons or larger shall be assessed two hundred dollars (\$200);

(B) In addition, at the time of initial application, the applicant shall pay an additional one hundred dollars (\$100) per tank, as required by section 319.129.2, RSMo, unless such fee has already been paid;

(C) If the required fees are not submitted with the application, and all other aspects of the application are acceptable, the board shall notify the applicant of the amount of such fees which are due, and shall indicate that such fees are due and payable within fourteen (14) days. Failure by the applicant to submit such fees in a timely manner shall result in rejection of the application, and no coverage shall exist;

(D) In the event that participation in the fund is terminated prior to the end of the period of coverage, participation fees shall be refunded on the basis of the percentage of days remaining in the coverage period; and

(E) Any fund participant who owns fifty (50) or more petroleum storage tanks may pay participation fees in semiannual installments.

(4) Upon determination that an applicant has met the requirements for participation in the fund, the board shall issue a document to the applicant confirming that fact, and specifying the effective date of coverage and other terms and conditions of such coverage as the board may deem appropriate.

(A) The effective date of coverage shall be the date that the board receives evidence that all tanks and piping for which coverage is being sought are being operated in compliance with pertinent statutes and regulations,

including evidence demonstrating a reasonable assurance that aboveground storage tanks are not leaking.

(B) The document shall confirm that the fund is providing financial protection for risks associated with sudden or non-sudden accidental releases arising from the operation of aboveground storage tanks, including costs of cleaning up such releases, third-party property damage, and third-party bodily injury, subject to the limits specified in sections 319.129 through 319.131, RSMo.

(C) The document shall include a cover page which identifies the person or persons being insured by the fund, the name and location of the business or operation where the tanks are located, and the specific tanks which are covered.

(D) For the purposes of coverage—as well as cancellation, nonrenewal of coverage or termination of coverage discussed elsewhere in this rule—12:01 a.m. shall be the time of day that such actions become effective.

(5) In order to continue participation in the fund, participants are required to renew their participation annually.

(A) The board shall notify participants approximately ninety (90) days in advance of the end of their coverage period, and shall invite participants to renew their coverage for another twelve (12)-month period of time.

(B) Participants shall submit such information as may be required by the board, including:

1. Changes made to their Spill Prevention, Control and Countermeasure (SPCC) Plan, if any;

2. Information on SPCC Plan recommendations which have been implemented, if any;

3. A demonstration, performed within the previous twelve (12) months, that any pressurized piping which is connected to or part of the aboveground storage tank(s) for which coverage is being sought is liquid tight; and

4. Other documentation as may reasonably be required by the board.

(C) Any participant who fails to do so shall receive a notice from the board, giving the participant sixty (60) days to submit such information in order to continue participation in the fund. At the end of the sixty (60) days, if the participant has failed to submit the required information, coverage may be cancelled.

(D) Upon determination that the participant has met the requirements for continued participation in the fund, the board shall issue a document to the applicant confirming that



fact, and specifying the effective date of coverage and other terms and conditions of such coverage as the board may deem appropriate.

(E) In order to continue participation in the fund, participants shall pay such fees as are set forth in subsection (3)(A) above. If such fees are not submitted with the renewal application, and the application is accepted, the board shall notify the applicant of the amount of such fees which are due, and shall indicate that such fees are due and payable within ten (10) days. Failure by the applicant to submit such fees in a timely manner shall result in nonrenewal of coverage on the date that such fees were due.

(6) The following procedures shall be followed when there is a change of ownership, change of operation, or change of landowner:

(A) If, during the period of coverage as specified by the board, the owner of an aboveground storage tank changes, the fund participant or new owner shall notify the board in writing of such within thirty (30) days.

1. The fund will transfer coverage to the new owner, and will preserve the retroactive date of coverage for the site, if the new owner desires such and the previous owner consents to the transfer.

A. In order to effect such a transfer, the new owner shall provide to the board written confirmation that such a transfer is desired, and that the previous owner agrees to such a transfer, along with the effective date of such transfer. The board may specify a particular form on which this confirmation must be provided.

B. The new owner must provide evidence of ability to pay the first ten thousand dollars (\$10,000), as specified in subsection (2)(E) of this rule, which might be incurred if and when the owner makes a claim for benefits from the fund.

C. No additional participation fees shall be required to effect such a transfer;

(B) If, during the period of coverage as specified by the board, the operator of the AST changes, the owner shall notify the board in writing of the change and the effective date of such change. The board shall acknowledge the change in writing, which shall include notice of the effective date of termination of participation by the previous operator; and

(C) If during the period of coverage as specified by the board, the owner of the real estate on which the tanks(s) are located changes, the fund participant shall notify the board in writing of the change at the time the participant renews coverage.

AUTHORITY: sections 319.129, 319.131, and 319.133, RSMo Supp. 1998. Original rule filed April 1, 1999, effective Nov. 30, 1999.*

**Original authority: 319.129, RSMo 1989, amended 1991, 1996, 1998; 319.131, RSMo 1989, amended 1991, 1994, 1995, 1996, 1998; and 319.133, RSMo 1989, amended 1991, 1996, 1998.*