

(Rule 0400-18-01-.13, continued)

- (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. §§ 68-215-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed December 8, 2011; effective March 7, 2012. Rule was renumbered from 1200-01-15.

0400-18-01-.14 RECORD RETENTION BY THE DIVISION.

- (1) Notification and tank ownership records.

The division shall maintain both tank registration/notification information and responsible party information that has been provided to the division or otherwise obtained by the division. Documents containing notification, tank registration and/or responsible party information shall be maintained as permanent records by the Division of Underground Storage Tanks due to the following factors:

- (a) Tank ownership records must be available should petroleum contamination be discovered sometime in the future, requiring the division to make determinations concerning fund eligibility and/or responsible parties, because:
 1. Timely registration or notification, in accordance with Rule 0400-18-01-.03, is required for establishment of fund eligibility in accordance with subparagraphs (3)(a) and (b) of Rule 0400-18-01-.09;
 2. The tank owner at the time of a release is a responsible party in accordance with T.C.A. § 68-215-103(17)(A);
 3. There may be some residual petroleum contamination that is not discovered during the site assessment at closure required by subparagraph (5)(a) of Rule 0400-18-01-.07; and/or

4. Some petroleum underground storage tanks regulated under T.C.A. § 68-215-101 et seq. were permanently closed, and in some cases removed from the ground, prior to the promulgation of regulatory requirements to perform a site assessment at closure. Residual petroleum contamination may exist at such sites; and

- (b) Some of these records include copies of deeds to real property, causing them to have permanent value.

(2) Fee payment records.

The division shall maintain fee payment information that has been provided to the division or otherwise obtained by the division. Records documenting the fee payment history associated with a petroleum site shall be maintained as permanent records by the Division of Underground Storage Tanks due to the following factors:

- (a) Fee payment records must be available should petroleum contamination be discovered sometime in the future, requiring the division to make determinations concerning fund eligibility, because:
 1. For releases which occurred prior to July 1, 2008, fee payment was required for establishment and maintenance of fund eligibility;
 2. For releases which occurred prior to July 1, 2008, the determination of fund eligibility is based, in part, on fee payment records; and/or
 3. There may be some residual petroleum contamination that is not discovered during the site assessment at closure required by subparagraph (5)(a) of Rule 0400-18-01-.07.

(3) Release response, remediation and risk management records.

Records documenting the actions taken to assess, remediate and/or manage petroleum contamination at a petroleum site caused by a release from a UST system shall be maintained as permanent records by the Division of Underground Storage Tanks due to the following factors:

- (a) These records pertain to real property, causing them to have permanent value.
 1. These records may contain copies of Notices of Land Use Restrictions, which have been attached to the deed to real property, in accordance with subparagraph (8)(c) of Rule 0400-18-01-.06 and T.C.A. § 68-212-225.
- (b) Risk based cleanup levels are required to be based on current and reasonably anticipated use of the property and location of receptors in accordance with part (5)(b)4 of Rule 0400-18-01-.06.
 1. If a person is contemplating a future use that was not anticipated at the time the site assessment and remediation was done in accordance with Rule 0400-18-01-.06, new risk calculations may need to be made taking into consideration the historical documents; and
 2. If a person is contemplating the future location of receptors that were not anticipated at the time the site assessment and remediation was done in accordance with Rule 0400-18-01-.06, new risk calculations, including the risk of

human exposure to carcinogens, may need to be made taking into consideration the historical documents.

(4) Reimbursement records.

Records documenting fund eligibility determinations and/or fund reimbursement payment history associated with a petroleum site shall be maintained as permanent records by the Division of Underground Storage Tanks due to the following factors:

- (a) These records have fiscal value, causing them to have permanent value.
- (b) For any fund eligible release there is a maximum reimbursable amount of one million dollars (\$1,000,000) less the deductible for that release, as set forth in paragraph (6) of Rule 0400-18-01-.09, for taking corrective actions. Reimbursement records contain information concerning the portion of this reimbursement amount which has been expended and the balance, if any, available for future reimbursement for corrective actions which might need to be taken in the future for previously undetected contamination.
 - 1. Post tank closure discovery of residual contamination.
 - (i) There may be some residual petroleum contamination that is not discovered during the site assessment at tank closure required by subparagraph (5)(a) of Rule 0400-18-01-.07.
 - (ii) Some petroleum underground storage tanks regulated under T.C.A. § 68-215-101 et seq. were permanently closed, and in some cases removed from the ground, prior to the promulgation of regulatory requirements to perform a site assessment at closure. Residual petroleum contamination may exist at such sites and may be discovered many years after the tanks were permanently closed.
 - 2. Discovery of residual contamination post closure of a contamination case.
 - (i) Previously undetected residual petroleum contamination may be discovered years after assessment and remediation activities have been completed in accordance with Rule 0400-18-01-.06.
 - (ii) Additional remediation activities may be needed after assessment and remediation activities have been completed in accordance with Rule 0400-18-01-.06 if the risk at the site has changed, as described in subparagraph (3)(b) of this rule.

(5) Tank closure records.

The division shall maintain tank closure information that has been provided to the division or otherwise obtained by the division. Records documenting tank closure as well as the site assessment records associated with tank closure shall be maintained as permanent records by the Division of Underground Storage Tanks due to the following factors:

- (a) These records pertain to real property, causing them to have permanent value; and
- (b) In accordance with subparagraph (4)(b) of Rule 0400-18-01-.07 petroleum underground storage tanks may be closed in place if they are filled with an inert substance or removed from the ground. It is important, when future use of the petroleum site is being considered, to know which tank closure option was utilized.

(6) Orders for correction and/or assessment, and cost recovery actions.

Records documenting enforcement actions that result in the issuance of an administrative order, under the provisions of T.C.A. § 68-215-114, and/or the issuance of an administrative order for the assessment of civil penalties, under the provisions of T.C.A. § 68-215-121, and records relating to cost recovery actions, under the provisions of T.C.A. § 68-215-115, shall be maintained as permanent records by the Division of Underground Storage Tanks due to the following factors:

- (a) These records have legal value; and
- (b) These records have fiscal value. These records may contain information concerning uncollected debts owed to the State of Tennessee, for example, when a respondent moves after being served with an administrative order and leaves no forwarding address.

(7) Maintenance of records.

- (a) All division records, including the permanent records specified in this rule, may be maintained as paper records, compact disks, microfilm records, electronic records, photographic records, and/or other forms that allow access for review and duplication.
- (b) The form of the record at the time of submittal to the division shall not limit or otherwise prescribe the form in which that record may be permanently maintained.
- (c) Nothing in this rule shall be construed to mean that the division is required to accept record submittals in any form other than that prescribed by the division.

Authority: T.C.A. §§ 68-215-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed December 8, 2011; effective March 7, 2012. Rule was renumbered from 1200-01-15.

0400-18-01-.15 PETROLEUM PRODUCT DELIVERY.

(1) Delivery prohibition.

It shall be unlawful for any person to place or cause to be placed, petroleum substances in a petroleum underground storage tank or to dispense petroleum from a tank, if the division has taken one or more of the following actions:

- (a) A tag or notice has been affixed to the dispensers;
- (b) A tag has been affixed to the fill ports; or
- (c) Notice has been given on the Department's web site.

(2) Dispensing prohibition.

It shall be unlawful for any person to dispense petroleum from a petroleum underground storage tank if the division has taken one or more of the actions in subparagraphs (1)(a) through (c) of this rule.

- (3) If the division has prohibited delivery and dispensing of petroleum products in accordance with paragraphs (1) and (2) of this rule, resumption of deliveries of petroleum and dispensing of petroleum shall not occur until: