



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) which is in use and is 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 section 319.100, RSMo, may not obtain coverage for their hazardous substance UST systems.

(2) 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. An application shall—

(A) Include a certification that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the Missouri Department of Natural Resources and the Missouri Department of Agriculture;

(B) Be submitted for each site for which the applicant desires coverage;

(C) 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 out of use;

(D) 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. This documentation shall include:

1. Monthly leak detection records, except in the following cases:

A. For USTs installed before July 1, 2017, or compartments of such tanks, which are being put into use for the first time, current tank and line tightness tests shall be provided;

B. For UST systems being put back into use after being out of use, current tank

and line tightness tests shall be provided; and

C. For operating UST systems being purchased by a new owner, current tank and line tightness tests shall be provided if at least two (2) current months' leak detection records are not available from the prior owner;

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 26-2;

6. Line and/or tank tightness tests, as required in 10 CSR 26-2; and

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

(E) Include documentation as required by the board demonstrating 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 board 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 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;

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

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

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

(F) Applicants must apply for coverage on all tanks in use at a site or the board will not insure any of the tanks. The only exceptions are aboveground tanks not required by the Department of Agriculture to have financial responsibility.

(3) Procedures Regarding Payment of Fees.

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

1. For double-walled USTs – one hundred dollars (\$100) per tank annually; and

2. For all other USTs – one hundred twenty-five dollars (\$125) per tank 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.

(4) 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.

(A) If the response is a notice of acceptance, it shall include the items specified in section (5) of this rule.

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

(C) 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.

(5) Upon determination that an applicant has met the requirements for participation in the fund, the board shall issue a declarations page and participation agreement to the applicant, 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 USTs are not leaking.

(B) The declarations page and participation agreement shall confirm coverage for risks associated with sudden or non-sudden accidental releases arising from the operation of USTs, 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. These benefits are subject to the following limits:

1. A per occurrence limit of one (1) million dollars;
2. An annual aggregate limit of two (2) million dollars; and
3. A deductible of ten thousand dollars (\$10,000) per occurrence.

(C) The declarations page shall specify the person or persons being insured by the fund, the name and location of the business or operation where the USTs are located, and the specific USTs 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.

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

(A) The board shall notify participants approximately sixty (60) 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 prior to the end of their coverage period. 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.

(C) Applicants must apply to renew their coverage on all tanks in use at a site or the board will not insure any of the tanks. The only exceptions are aboveground tanks not required by the Department of Agriculture to have financial responsibility.

(D) Upon determination that the participant has met the requirements for continued participation in the fund, the board shall issue a new declarations page confirming that fact and specifying the effective date(s) of coverage. Other terms and conditions of such coverage contained in the participation agreement previously issued for that site shall remain in effect for the new coverage period unless the board amends the terms and conditions in writing.

(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.

(F) If at the end of a policy period, all of the previously-insured USTs have been taken out of use, the owner/operator of the tank(s) shall no longer be insured for costs resulting from sudden or non-sudden releases, since there cannot be a release from an empty tank. Instead, the owner or operator may apply for an extended reporting period. The extended reporting period allows named persons to give notice of claim for a release which occurred while the previously-insured tank(s) was/were in use, but which is not yet known.

1. Participation fees for the extended reporting period shall be paid at the same rates as specified in subsection (3)(A) above.

2. Terms and conditions of coverage shall be contained in an endorsement to the participation agreement issued by the board to the fund participant(s).

3. The extended reporting period shall consist of one- (1-) year increments. It shall not last for more than five (5) years after it first commences, and in no case beyond the sunset date of the fund established by the Missouri General Assembly.

4. The board reserves the right to grant extended reporting periods at its sole discretion.

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

(A) If the ownership of a UST changes during the period of coverage, coverage shall cease on the date ownership changes. At its sole discretion, the board may offer the former owner an opportunity to purchase an extended reporting period, as described in subsection (6)(F) of this rule;

(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 issue an endorsement to the participation agreement which shall include the effective date of termination of participation by the previous operator;

(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 in writing of the change and the effective date of such change. The board shall issue an endorsement to the participation agreement which shall include the effective date of termination of participation by the previous landowner; and

(D) If, during the period of coverage as specified by the board, a fund participant installs one (1) or more additional tanks at an insured site and desires coverage for the new tank(s), the fund participant must notify the board, provide such information as the board may require to demonstrate the integrity of the new tank(s), and pay the new tank fee(s) and a pro-rata portion of the annual fee(s) assessed in section (3) of this rule.

AUTHORITY: sections 319.129, 319.131, and 319.133, RSMo 2016. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed Nov. 15, 2001, effective May 30, 2002. Amended: Filed Nov. 3, 2003, effective May 30, 2004. Amended: Filed Sept. 1, 2006, effective July 30, 2007. Amended: Filed Aug. 13, 2012, effective March 30, 2013. Amended: Filed Feb. 15, 2018, effective Sept. 30, 2018.*

**Original authority: 319.129, RSMo 1989, amended 1991, 1996, 1998, 2001, 2008; 319.131, RSMo 1989, amended 1991, 1994, 1995, 1996, 1998, 1999, 2001, 2008; and 319.133, RSMo 1989, amended 1991, 1996, 1998, 2001, 2008.*

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) which is in use 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) 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. An application shall—

(A) Include a certification that the petroleum tanks meet or exceed and are in compliance with rules established by the Missouri Department of Agriculture;

(B) Be submitted for each site for which the applicant desires coverage;

(C) 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;

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

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

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

(E) 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 board 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

(F) Applicants must apply for coverage on all tanks in use at a site or the board will not insure any of the tanks. The only exceptions are aboveground tanks not required by the Department of Agriculture to have financial responsibility.

(3) Procedures Regarding Payment of Fees.

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

1. For tanks less than twenty-five thousand (25,000) gallons - one hundred dollars (\$100) per tank annually; and

2. For tanks twenty-five thousand (25,000) gallons or larger - two hundred dollars (\$200) per tank 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.

(4) 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.

(A) If the response is a notice of acceptance, it shall include the items specified in section (5) of this rule.

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

(C) 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.

(5) Upon determination that an applicant has met the requirements for participation in the fund, the board shall issue a declarations page and participation agreement to the applicant, 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 ASTs are not leaking.

(B) The declarations page and participation agreement shall confirm coverage for risks associated with sudden or non-sudden accidental releases arising from the operation of ASTs, 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. These benefits are subject to the following limits:

1. A per occurrence limit of one (1) million dollars;

2. An annual aggregate limit of two (2) million dollars; and

3. A deductible of ten thousand dollars (\$10,000) per occurrence.

(C) The declarations page shall specify 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.

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

(A) The board shall notify participants approximately sixty (60) 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. A demonstration, performed within the previous twelve (12) months, that any piping which is connected to or part of the ASTs for which coverage is being sought is liquid



tight; and

2. 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) Applicants must apply to renew their coverage on all tanks in use at a site or the board will not insure any of the tanks. The only exceptions are aboveground tanks not required by the Department of Agriculture to have financial responsibility.

(E) Upon determination that the participant has met the requirements for continued participation in the fund, the board shall issue a new declarations page confirming that fact and specifying the effective date(s) of coverage. Other terms and conditions of such coverage contained in the participation agreement previously issued for that site shall remain in effect for the new coverage period unless the board amends the terms and conditions in writing.

(F) 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.

(G) If at the end of a participation period, all of the previously-insured ASTs have been taken out of use, the owner and/or operator of the tank(s) shall no longer be insured for costs resulting from sudden or non-sudden releases, since there cannot be a release from an empty tank. Instead, the owner or operator may apply for an extended reporting period. The extended reporting period allows named persons to give notice of claim for a release which occurred while the previously-insured tank(s) was/were in use, but which is not yet known.

1. Participation fees for the extended reporting period shall be paid on such tanks at the same rates as specified in subsection (3)(A) above.

2. Terms and conditions of coverage shall be contained in an endorsement to the participation agreement issued by the board to the fund participant(s).

3. The extended reporting period shall

consist of one- (1-) year increments, but shall not last for more than five (5) years after it commences and in no case beyond the sunset date of the fund established by the Missouri General Assembly.

4. The board reserves the right to grant extended reporting periods at its sole discretion.

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

(A) If the ownership of an AST changes during the period of coverage, coverage shall cease on the date ownership changes. At its sole discretion, the board may offer the former owner an opportunity to purchase an extended reporting period, as described in subsection (6)(F) of this rule;

(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 issue an endorsement to the participation agreement which shall include the effective date of termination of participation by the previous operator;

(C) If, during the period of coverage as specified by the board, the owner of the real estate on which the tank(s) are located changes, the fund participant shall notify the board in writing of the change and the effective date of such change. The board shall issue an endorsement to the participation agreement which shall include the effective date of termination of participation by the previous landowner; and

(D) If, during the period of coverage as specified by the board, a fund participant installs one (1) or more additional tanks at an insured site and desires coverage for the new tank(s), the fund participant must notify the board, provide such information as the board may require to demonstrate the integrity of the new tank(s), and pay the new tank fee(s) and a pro-rata portion of the annual fee(s) assessed in section (3) of this rule.

AUTHORITY: sections 319.129, 319.131, and 319.133, RSMo 2016. Original rule filed April 1, 1999, effective Nov. 30, 1999. Amended: Filed Nov. 15, 2001, effective May 30, 2002. Amended: Filed Nov. 3, 2003, effective May 30, 2004. Amended: Filed Sept. 1, 2006, effective July 30, 2007. Amended: Filed April 13, 2009, effective Oct. 30, 2009. Amended: Filed Aug. 13, 2012, effective March 30, 2013. Amended: Filed Feb. 15, 2018, effective Sept. 30, 2018.*

**Original authority: 319.129, RSMo 1989, amended 1991, 1996, 1998, 2001, 2008; 319.131, RSMo 1989, amended 1991, 1994, 1995, 1996, 1998, 1999, 2001, 2008; and 319.133, RSMo 1989, amended 1991, 1996, 1998, 2001, 2008.*