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§ 1304.405 Fuel storage tanks and handling facilities.

Fuel storage tanks and handling facilities are generally either underground (UST) or aboveground (AST) storage tank systems. An UST is any one or combination of tanks or tank systems defined in applicable Federal or State regulations as an UST. Typically (unless otherwise provided by applicable Federal or State rules), an UST is used to contain a regulated substance (such as a petroleum product) and has 10 percent or more of its total volume beneath the surface of the ground. The total volume includes any piping used in the system. An UST may be a buried tank, or an aboveground tank with buried piping if the piping holds 10 percent or more of the total system volume including the tank. For purposes of this part, an aboveground storage tank (AST) is any storage tank whose total volume (piping and tank) is less than 10 percent underground or any storage tank defined by applicable law or regulation as an AST.

(a) TVA requires the following to be included in all applications submitted after September 8, 2003 to install an UST or any part of an UST system below the 500-year flood elevation on a TVA reservoir, or regulated tailwater:

(1) A copy of the State approval for the UST along with a copy of the application sent to the State and any plans or drawings that were submitted for the State's review;

(2) Evidence of secondary containment for all piping or other systems associated with the UST;

(3) Evidence of secondary containment to contain leaks from gas pump(s);

(4) Calculations certified by a licensed, professional engineer in the relevant State showing how the tank will be anchored so that it does not float during flooding; and

(5) Evidence, where applicable, that the applicant has complied with all spill prevention, control and countermeasures (SPCC) requirements.

(b) The applicant must accept and sign a document stating that the applicant shall at all times be the owner of the UST system, that TVA shall have the right (but no duty) to prevent or remedy pollution or violations of law, including removal of the UST system, with costs charged to the applicant, that the applicant shall at all times maintain and operate the UST system in full compliance with applicable Federal, State, and local UST regulations, and that the applicant shall maintain eligibility in any applicable State trust fund.

(c) An application to install an AST or any part of an AST system below the 500-year elevation on a TVA reservoir or a regulated tailwater is subject to all of the requirements of paragraphs (a) and (b) of this section except that paragraph (a)(1) shall not apply in States that do not require application or approval for installation of an AST. Eligibility must be maintained for any applicable AST trust fund, and the system must be maintained and operated in accordance with any applicable AST regulations. The applicant must notify and obtain any required documents or permission from the State fire marshal's office prior to installation of the AST. The applicant must also follow the National Fire Protection Association Codes 30 and 30A for installation and maintenance of flammable and combustible liquids storage tanks at marine service stations.

(d) *Fuel handling on private, non-commercial docks and piers.* TVA will not approve the installation, operation, or maintenance of fuel handling facilities on any private, non-commercial dock or pier.

(e) *Floating fuel handling facilities.* TVA will not approve the installation of any floating fuel handling facility or fuel storage tank.

(f) *Demonstration of financial responsibility.* Applicants for a fuel handling facility to be located in whole or in part on TVA land shall be required to provide TVA, in a form and amount acceptable to TVA, a surety bond, irrevocable letter of credit, pollution liability insurance, or other evidence of financial responsibility in the event of a release.

§ 1304.406 Removal of unauthorized, unsafe, and derelict structures or facilities.

If, at any time, any dock, wharf, boathouse (fixed or floating), floating cabin, outfall, aerial cable or other