

SUBCHAPTER F: ABOVEGROUND STORAGE TANKS
§§334.121 - 334.130, 334.132
Effective October 30, 2008

§334.121. Purpose and Applicability for Aboveground Storage Tanks (ASTs).

(a) Purpose. The purpose of this subchapter is to provide a regulatory program for aboveground storage tanks (ASTs) storing petroleum products, as prescribed by the Texas Water Code, Chapter 26, Subchapter I, to maintain and protect the quality of groundwater and surface water resources in the state from certain substances in ASTs that may pollute such groundwater and surface water resources, and to provide for the protection of human health and safety, as well as the protection of the overall environment of the state.

(b) Applicability.

(1) An AST shall be subject to the regulations in this subchapter only when such tank:

(A) meets the definition of "aboveground storage tank" in §334.122 of this title (relating to Definitions for Aboveground Storage Tanks (ASTs));

(B) contains, has contained, or will contain a "petroleum product" as defined in §334.2 of this title (relating to Definitions);

(C) is not exempted from regulation in §334.123 of this title (relating to Exemptions for Aboveground Storage Tanks (ASTs)); and

(D) is not excluded from regulation in §334.124 of this title (relating to Exclusions for Aboveground Storage Tanks (ASTs)).

(2) The requirements and provisions in this subchapter are applicable to regulated ASTs, and to the registration, installation notification, reporting, recordkeeping, release reporting and corrective action, fee assessment, and other requirements associated with such tanks, as more fully described in this subchapter.

(3) The requirements and provisions in this subchapter apply equally to all owners and operators of regulated ASTs, including individuals, trusts, firms, joint-stock companies, corporations, governmental corporations, partnerships, associations (including nonprofit and charity organizations), states, municipalities, commissions, political subdivisions of a state, interstate bodies, consortiums, joint ventures, commercial and noncommercial entities, and the United States government (including all of its departments), except as otherwise provided in this subchapter.

(4) The following types of aboveground tanks are subject to the regulations in this subchapter if they meet the general qualifications for an AST in paragraph (1) of this subsection:

(A) compartmental tanks, when at least one of the compartments is used to store petroleum products; and

(B) dual-use or multiple-use tanks which alternately store two or more substances, when at least one of the stored substances is a petroleum product.

(5) If a storage tank containing a petroleum product technically meets the definitions of both an AST and an underground storage tank (UST) under this chapter, then the tank will be considered an UST, and must conform with all applicable requirements for UST in this chapter.

(6) Consistent with the exemption for heating oil tanks in §334.123(a)(2) of this title, an AST storing a petroleum product (such as kerosene or diesel) which is primarily used as a heating oil substitute for heating purposes on the premises where stored, and which is secondarily used as a motor fuel for the operation of internal combustion engines, is exempt from the regulations of this subchapter.

Adopted November 1, 2000

Effective November 23, 2000

§334.122. Definitions for Aboveground Storage Tanks (ASTs).

(a) Except as provided in subsection (b) of this section, the words and terms used in this subchapter have the meanings prescribed in §334.2 of this title (relating to Definitions), unless the context clearly indicates otherwise.

(b) The following words and terms, as used in this subchapter only, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Aboveground storage tank** - A nonvehicular device (including any associated piping) that is made of nonearthen materials; located on or above the surface of the ground, or on or above the surface of the floor of a structure below ground, such as a mineworking, basement, or vault; and designed to contain an accumulation of petroleum products.

(2) **Associated piping** - All underground pipes or aboveground pipes (including related valves, elbows, joints, flanges, connectors, and other fittings) which are directly associated with an AST storing petroleum products, which are located at the AST facility, and through which petroleum products flow or in which petroleum products are contained or stored.

(3) **Bulk facility** - A facility, including pipeline terminals, refinery terminals, rail and barge terminals, and associated underground and ASTs, connected or separate, from which petroleum products are withdrawn from bulk and delivered into a cargo tank or barge used to transport those products.

(4) **Electric generating facility** - A plant or facility where on-site equipment is used to generate electrical power on a continuous or regular basis. This term does not include emergency generators, as defined in §334.2 of this title.

(5) **Nonearthen materials** - Man-made materials designed to provide structural support and containment, such as concrete, steel, or plastic.

(6) **Nonvehicular device** - A fixed, stationary, or moveable storage vessel which is not affixed or mounted to any self-propelled, towable, or pushable vehicle (e.g., wagon, truck, trailer, railcar, aircraft, boat, or barge).

Adopted November 1, 2000

Effective November 23, 2000

§334.123. Exemptions for Aboveground Storage Tanks (ASTs).

(a) The following aboveground storage tanks (ASTs) are exempt from regulation under this subchapter:

(1) a farm or residential tank with a capacity of 1,100 gallons or less used for storing motor fuel for noncommercial purposes;

(2) a tank used for storing heating oil for consumptive use on the premises where stored;

(3) a septic tank;

(4) a surface impoundment, pit, pond, or lagoon;

(5) a stormwater or wastewater collection system;

(6) a flow-through process tank;

(7) a tank, liquid trap, gathering line, or other facility used in connection with an activity associated with the exploration, development, or production of oil, gas, or geothermal resources, or any other activity regulated by the Railroad Commission of Texas pursuant to the Natural Resources Code, §91.101;

(8) a tank located on or above the surface of the floor of an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the sole or principal substance in the tank is a hazardous substance; and

(9) a tank that is located at or is part of a petrochemical plant, a petroleum refinery, an electric generating facility, or a bulk facility.

(b) The following pipeline facilities are exempt from regulation under this subchapter, as provided in Texas Water Code, §26.344;

(1) an interstate pipeline facility, including gathering lines and any AST connected to such facility, if the pipeline facility is regulated under:

(A) the Natural Gas Pipeline Safety Act of 1968 (49 United States Code §1671, et seq.); or

(B) the Hazardous Liquid Pipeline Safety Act of 1979 (49 United States Code §2001, et seq.);

(2) an intrastate pipeline facility or any AST connected to such a facility, if the pipeline facility is regulated under one of the following state laws:

(A) the Natural Resources Code, Chapter 111;

(B) the Natural Resources Code, Chapter 117; or

(C) Texas Civil Statutes, Article 6053-1 and 6053-2.

(c) Upon request by the agency, the owner and operator of a tank claimed to be exempted under this section must provide appropriate documentation or other information in a timely manner to support that claim.

Adopted November 1, 2000

Effective November 23, 2000

§334.124. Exclusions for Aboveground Storage Tanks (ASTs).

(a) Except as provided in subsection (b) of this section, the following aboveground storage tanks (ASTs) are excluded from regulation under this subchapter:

(1) any tank with a capacity of 1,100 gallons or less;

(2) any emergency spill protection or emergency overflow containment tank, including any sump or secondary containment system, which is used solely for the temporary storage or containment of petroleum products resulting from a leak, spill, overflow, or other unplanned release of petroleum products from any source, and where the petroleum products are routinely removed within 48 hours of the discovery of the release, provided that this tank must be inspected for a release no less than once every month;

(3) any tank that contains petroleum products at such dilute concentrations that:

(A) the mixture is not capable of being used as a fuel for the propulsion of a motor vehicle or aircraft; and

(B) any release would not pose any significant threat to human health and safety or the environment;

(4) a transformer or other electrical equipment that is used in the transmission of electricity.

(b) Notwithstanding the exemptions in subsection (a) of this section, any AST containing petroleum products located at a retail service station is subject to the construction notification

requirements of §334.126 of the this title (relating to Installation Notification for Aboveground Storage Tanks (ASTs)).

(c) Upon request by the agency, the owner and operator of a tank claimed to be excluded under this section must provide appropriate documentation or other information in a timely manner to support that claim.

Adopted November 1, 2000

Effective November 23, 2000

§334.125. General Prohibitions and Requirements for Aboveground Storage Tanks (ASTs).

(a) Delivery prohibition. Except as provided in paragraph (1) of this subsection, on or after the effective date of this subchapter, no common carrier (as defined in §334.2 of this title (relating to Definitions)) shall deposit any petroleum products into an aboveground storage tank (AST) unless he observes that the owner or operator has a valid, current registration certificate, issued by the agency in accordance with §334.127 of this title (relating to Registration of Aboveground Storage Tanks (ASTs)).

(1) For new or replacement AST systems, only during the initial period ending 90 days after that petroleum product is first deposited into such system(s), a common carrier may accept, as adequate to meet this requirement, documentation that the owner or operator has a "temporary delivery authorization" (as defined at §334.127(h) of this title) issued by the agency for the facility at which the new or replacement AST system(s) exists.

(2) A common carrier delivering petroleum product into an AST system may observe a valid, current, original registration certificate (or temporary delivery authorization, if applicable), or a legible copy of the same.

(b) Owner/Operator requirements. The owner and operator of ASTs regulated under this section must make available to a common carrier a valid, current Texas Natural Resource Conservation Commission (TNRCC) tank registration certificate (or TNRCC temporary delivery authorization, as applicable) before delivery of a petroleum product(s) into the AST(s) can be accepted. The bill of lading for the first delivery of petroleum product into any new or replacement AST system at the facility must be attached to the temporary delivery authorization for that facility.

Adopted November 1, 2000

Effective November 23, 2000

§334.126. Installation Notification for Aboveground Storage Tanks (ASTs).

(a) Except as provided in subsection (b) of this section, any person who intends to install a new or replacement aboveground storage tank (AST) must comply with the notification requirements of this section prior to initiating such activity.

(1) Installation notifications shall be submitted to the agency at least 30 days prior to initiating the activity.

(A) The notification may be provided either to the agency's central office in Austin or to the agency's appropriate regional office. The official date of notification shall be the date on which the notification is first received in an agency office.

(B) Notification may be provided by the owner or operator, or an authorized representative of the owner or operator, (e.g., the contractor or consultant retained for the activity). Notifications filed by unauthorized persons shall be null and void.

(C) Notifications shall be submitted on the agency's authorized form. The form shall be filled out completely. Upon completion, the form shall be dated and signed by the owner or operator (or authorized representative) and shall be filed in accordance with this paragraph.

(D) When appropriate, installation notifications for ASTs (as required under this section) may be filed together with construction notifications for underground storage tank (UST) activities at the same facility (as required by §334.6 of this title (relating to Construction Notification for Underground Storage Tank (USTs) and UST Systems)), provided that complete and accurate explanation of the activities is included.

(E) Between 24 and 72 hours prior to the scheduled time of initiation of the installation, the owner or operator (or authorized representative) shall contact the agency's appropriate regional office to confirm the time of the initiation of the installation activities.

(F) The requirements and procedures for rescheduling, waiver requests, and expiration as related to installation notifications for ASTs shall be in conformance with the procedures for construction notifications applicable to USTs in §334.6(b)(3) - (5) of this title.

(2) When requested by the agency, any person who intends to install a new or replacement AST shall also submit additional supporting information to assure that the activity is in compliance with applicable statutes and regulations.

(3) In addition to the installation notification requirements of this section, the owner or operator of a proposed AST that is to be located in the designated recharge zone or transition zone of the Edwards Aquifer shall also secure the requisite approval from the executive director prior to initiating any installation or replacement activities, as prescribed in Chapter 313 of this title (relating to Edwards Aquifer).

(4) When an existing UST is to be removed from the ground and is to be subsequently converted to an AST, the person must comply with the applicable technical requirements under §334.55 of this title (relating to Permanent Removal from Service) and with the notification requirements of §334.6 and §334.126 of this title (relating to Construction Notification for Aboveground Storage Tanks (ASTs) and Installation Notification for Aboveground Storage Tanks (ASTs)).

(b) The following ASTs shall not be subject to the installation notification requirements of this section:

(1) ASTs which are exempt from regulation under §334.123 of this title (relating to Exemptions for Aboveground Storage Tanks (ASTs));

(2) ASTs which are excluded from regulation under §334.124 of this title (relating to Exclusions for Aboveground Storage Tanks (ASTs));

(3) movable or mobile ASTs (e.g., skid tanks) which are moved from one location to another on a regular basis, which are not permanently part of any particular facility, and which are otherwise in compliance with the provisions of §334.127(f) of this title (relating to Registration for Aboveground Storage Tanks (ASTs)); except that any movable or mobile ASTs proposed for installation or placement at a retail service station shall remain subject to the installation notification requirements of this section.

Adopted November 1, 2000

Effective November 23, 2000

§334.127. Registration for Aboveground Storage Tanks (ASTs).

(a) General provisions.

(1) All aboveground storage tanks (ASTs) in existence on or after September 1, 1989, must be registered with the agency on authorized agency forms in accordance with subsection (e) of this section, except for those tanks which:

(A) are exempt from regulation under §334.123 of this title (relating to Exemptions for Aboveground Storage Tanks (ASTs)); or

(B) are excluded from regulation under §334.124 of this title (relating to Exclusions for Aboveground Storage Tanks (ASTs)).

(2) The owner and operator of an AST are responsible for compliance with the tank registration requirements of this section. An owner or operator may designate an authorized representative to complete and submit the required registration information; however, the owner and operator remain responsible for compliance with the provisions of this section.

(3) All ASTs subject to the registration requirements of this section are also subject to the fee provisions in §334.128 of this title (relating to Annual Facility Fees for Aboveground Storage Tanks (ASTs)), except where specifically exempted from such fee provisions. The failure by a tank owner or operator to properly or timely register any tanks shall not exempt the owner from such fee assessment and payment provisions.

(4) Proper completion of the specified agency tank registration form will result in the agency's issuance of a registration certificate for the tanks at the facility covered by that registration. This certificate is tied to the delivery prohibitions detailed in §334.125 of this title General Prohibitions and Requirements for Aboveground Storage Tanks (ASTs).

(b) Existing tanks. Any person who owns or operates an AST subject to the provisions of this section that was in existence on September 1, 1989, shall register such tank with the agency not later than March 1, 1990, on an authorized agency form.

(c) New or replacement tanks. Any person who owns or operates a new or replacement AST subject to the provisions of this section that is placed into service on or after September 1, 1989, must register the tank with the agency on an authorized agency form no later than March 1, 1990, or within 30 days from the date any petroleum product is first placed into the tank, whichever is later.

(d) Changes or additional information. An owner or operator of an AST subject to the provisions of this section must provide written notice to the agency of any changes or additional information concerning the status of any regulated tanks, including, but not limited to, information regarding the operational status, condition, substance stored, ownership, location of records, and number of tanks. This notice must be submitted on an authorized agency form which has been completed in accordance with subsection (e) of this section. This form must be properly completed and signed, and shall include the Texas Natural Resource Conservation Commission (TNRCC) facility identification number in the appropriate space on the form. Notice of any change or additional information must be filed with the agency within 30 days of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition, as applicable.

(e) Required form for providing AST registration information.

(1) Any AST owner or operator required to submit tank registration information under subsections (a) - (d) of this section must provide all the information indicated on the agency's authorized form for each regulated AST owned.

(2) The tank registration form must be filled out completely and accurately. Upon completion, the form must be dated and signed by the owner, operator, or an authorized representative of the owner or operator, and must be filed with the agency within the time frames specified in this section.

(3) All AST owners or operators required to submit AST registration information under subsections (a) - (d) of this section must provide the registration information for all ASTs located at a particular facility on the same registration form.

(4) All AST owners or operators who own or operate ASTs located at more than one facility must complete and file a separate registration form for each facility where regulated ASTs are located, unless otherwise allowed under subsection (f) of this section.

(5) If additional documents are submitted with new or revised registration data, the specific facility identification information (including the facility identification number, if known) must be conspicuously indicated on each document, and all such documents must be securely attached to and filed with the registration form.

(f) Registration requirements for movable ASTs. Movable or mobile ASTs which are regularly used to store petroleum products (e.g., skid tanks) must also be registered by the owner or operator in accordance with the provisions of this section. When such tanks are intended to be moved from one location to another on a regular basis and are not permanently part of any particular facility, then an owner or operator may register the tanks in accordance with the following procedures:

(1) For the purposes of completing the tank registration form, the owner or operator must identify the facility location for such movable tanks as the owner's or operator's principal business address or location;

(2) The owner or operator must continuously maintain complete and accurate records of the specific location, operational status, condition, and type of petroleum products stored at the owner's or operator's principal business address or location. At any given time, the records must include the required tank information for at least the preceding five years. Such records must be readily accessible and available for inspection upon request by agency personnel; and

(3) Any movable or mobile tank which is registered at the owner's or operator's business address or location, rather than at the actual facility location, must be permanently and legibly labeled with the agency's designated identification number for such tank by painting, decals, tags, or other permanent identification method.

(g) Inadequate information. When any of the required AST registration information submitted to the agency is determined to be inaccurate, unclear, illegible, incomplete, or otherwise inadequate, the agency may require the owner and/or operator to submit additional information. An owner and/or operator must submit any such additional information within 30 days of receipt of such request.

(h) Temporary delivery authorization.

(1) Upon receipt of a TNRCC construction notification form indicating pending installation of a new or replacement AST system(s), the agency will issue a temporary delivery authorization for that tank system(s).

(2) The temporary delivery authorization is valid for no more than 90 days after the first delivery of petroleum product into the new or replacement AST system.

(3) The AST owner and operator are responsible for maintaining complete and accurate records of the date of the first deposit of petroleum product into a new or replacement AST, as well as the date that the initial 90-day period expires. The bill of lading for the first delivery of regulated substance into any new or replacement AST at the facility must be attached to the temporary delivery authorization for that facility.

Adopted November 1, 2000

Effective November 23, 2000

§334.128. Annual Facility Fees for Aboveground Storage Tanks (ASTs).

(a) Fee assessments.

(1) Except as provided in subsection (e) of this section, an annual facility fee of \$25 will be assessed by the agency for each aboveground storage tank (AST) subject to the registration provisions of §334.127 of this title (relating to Registration for Aboveground Storage Tanks (ASTs)).

(2) All annual facility fees will be billed to, and must be payable by, the owner of the AST.

(3) Payment of annual facility fees is due no later than 30 days after the date the agency mails a statement of the assessment to the tank owner.

(4) Annual facility fees must be paid by check, certified check, or money order made payable to the Texas Commission on Environmental Quality. Payments must be mailed to the address specified in the billing statement.

(b) Billing schedule.

(1) The agency will establish a schedule for the billing of annual facility fees.

(2) Regardless of the actual billing date, the total amount of annual facility fees billed to and payable by an owner will be based on the total number of regulated ASTs in place on or after the first day of each fiscal year (September 1).

(c) Failure to make payment.

(1) Annual facility fees must be paid at the time and in the manner and amount provided by this section.

(2) The agency will impose interest and penalties on owners who fail to make payment of the annual facility fees assessed under this section when due in accordance with Chapter 12 of this title (relating to Payment of Fees).

(d) Disposition of fees, interest, and penalties. As required by the Texas Water Code (TWC), §26.358(g), the agency will deposit all annual facility fees collected, together with all interest and penalties collected for late payment, in the state treasury to the credit of the storage tank fund.

(e) Exception. An annual facility fee shall cease to be assessed, effective September 1, 2007, and shall not be assessed until such time as reinstated by the commission at an amount determined appropriate by the commission, however, prior owing tank fees are still due as previously described. In addition, at such time as the annual facility fee is reinstated by the commission, it will not be assessed for an AST which is owned by a common carrier railroad, as provided in the TWC, §26.344(g).

Adopted October 8, 2008

Effective October 30, 2008

§334.129. Release Reporting and Corrective Action for Aboveground Storage Tanks (ASTs).

(a) An owner or operator of an aboveground storage tank (AST) must comply with the same release reporting, investigation, and corrective action requirements and procedures applicable to underground storage tanks, as prescribed in Subchapter D of this chapter (relating to Release Reporting and Corrective Action), whenever a suspected or confirmed release of a petroleum product from an AST has occurred.

(b) An owner or operator of an AST which stores other petroleum substances or hazardous substances which are not petroleum products must comply with the release reporting, investigation, and corrective action requirements prescribed in the Texas Water Code, Chapter 26, Subchapter G.

Adopted November 1, 2000

Effective November 23, 2000

§334.130. Reporting and Recordkeeping for Aboveground Storage Tanks (ASTs).

(a) Reporting. Owners and operators of aboveground storage tanks (ASTs) must assure that all reporting and filing requirements in this subchapter are met, including the following (as applicable):

(1) installation notification in accordance with §334.126 of this title (relating to Installation Notification for Aboveground Storage Tanks (ASTs));

(2) application for approval of any proposed AST in the Edwards Aquifer recharge or transition zones, in accordance with §334.126(3) of the this title and Chapter 313 of this title (relating to Edwards Aquifer);

(3) registration of ASTs and changes in information, in accordance with §334.127 of this title (relating to Registration for Aboveground Storage Tanks(ASTs));

(4) payment of annual facility fees for ASTs, in accordance with §334.128 of this title (relating to Annual Facility Fees for Aboveground Storage Tanks (ASTs));

(5) all reports, plans, and certifications related to actions taken in response to suspected and confirmed releases of petroleum products, in accordance with §334.129 of this title (relating to Release Reporting and Corrective Action for Aboveground Storage Tanks (ASTs)) and Subchapter D of this chapter (relating to Release Reporting and Corrective Action);

(6) any other reports, filings, notifications, or other submittals required by this subchapter, or otherwise required by the agency or the commission to demonstrate compliance with the provisions of this subchapter.

(b) Recordkeeping.

(1) General recordkeeping requirements.

(A) Except as provided in subparagraph (B) of this paragraph, owners and operators of ASTs must comply with the same general recordkeeping requirements applicable to underground storage tanks, as prescribed in §334.10(b)(1) of this title (relating to Reporting and Recordkeeping).

(B) Owners and operators of movable or mobile ASTs (e.g., skid tanks) may maintain the records for such tanks in accordance with the provisions of §334.127(f)(2) of this title.

(2) Required records and documents. Owners and operators of ASTs must assure that legible copies of all original and amended tank registration documents, as prescribed in §334.127 of this title, are maintained for the operational life of the AST.

Adopted November 1, 2000

Effective November 23, 2000

§334.132. Other General Provisions for Aboveground Storage Tanks (ASTs).

(a) Other regulations. Compliance with the provisions of this subchapter by an owner or operator of an aboveground storage tank (AST) must not relieve such owner or operator from the responsibility of compliance with any other laws and regulations directly and/or indirectly affecting such tanks and the stored petroleum products, including, but not necessarily limited to, all applicable regulations legally promulgated by the United States Environmental Protection Agency, United States Occupational Safety and Health Administration, United States Department of Transportation, United States Nuclear Regulatory Commission, United States Department of Energy, Texas Department of Health, State Board of Insurance (including State Fire Marshal), Railroad Commission of Texas, Texas Department of Agriculture, State Comptroller, Texas Department of Public Safety, Texas Natural Resource Conservation Commission and any other federal, state, and local governmental agencies or entities having appropriate jurisdiction.

(b) Responsibilities of owners and operators. The owners and operators of ASTs subject to the provisions of this subchapter are responsible for ensuring compliance with all applicable provisions of this subchapter. Owners and operators are responsible for any violations or noncompliant activities resulting from the actions or inactions by any person who is employed or otherwise engaged by the owner or operator.

(c) Inspections, monitoring, and testing.

(1) For the purposes of developing or assisting in the development of a regulation, conducting a study, or enforcing this subchapter, an owner or operator of an AST, on the request of the agency must:

(A) furnish information related to the tank, including tank equipment and contents; and

(B) permit a designated agent or employee of the agency at all reasonable times to have access to and to copy all records relating to the tank.

(2) For the purposes of developing or assisting in the development of a regulation, conducting a study, or enforcing this subchapter, the agency's designated agent or employee may:

(A) enter at reasonable times an establishment or place in which an AST is located;

(B) inspect and obtain samples of a petroleum substance contained in the tank from any person; and

(C) conduct monitoring or testing of the tank, associated equipment, contents, or surrounding soils, air, surface water, or groundwater.

(3) The agency may direct an owner or operator of an AST to conduct monitoring and testing if the agency finds that there is reasonable cause to believe that a release has occurred in the area in which the tank is located.

(A) enter at reasonable times an establishment or place in which an aboveground storage tank is located;

(B) inspect and obtain samples of a petroleum substance contained in the tank from any person; and

(C) conduct monitoring or testing of the tank, associated equipment, contents, or surrounding soils, air, surface water, or groundwater.

(3) The commission may order an owner or operator of an aboveground storage tank to conduct monitoring and testing if the commission finds that there is reasonable cause to believe that a release has occurred in the area in which the aboveground storage tank is located.

(4) Each inspection made under this section must be begun and completed with reasonable promptness. Before a designated agent or employee of the commission enters private property to carry out a function authorized under this section, the agent or employee must give reasonable notice and exhibit proper identification to the manager or owner of the property or to another appropriate person. The commission's designated agent or employee must observe the regulations of the establishment being inspected, including regulations regarding safety, internal security, and fire protection.

(5) Pursuant to the provisions of Texas Civil Statutes, Article 9201, §3 (as amended by Senate Bill 698, 71st Legislature, 1989), the commission shall have concurrent jurisdiction with the State Board of Insurance on inspection of initial installation and other administrative supervision of certain specified aboveground storage tanks at retail service stations. Primary authority for inspection of initial installation of such tanks shall be in the Texas Water Commission. The commission shall report all violations of Texas Civil Statutes, Article 9201, §3, in regard to aboveground storage tanks to the state fire marshal for enforcement proceedings.

Adopted November 1, 2000

Effective November 23, 2000