

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

Arkansas Department of Environmental Quality (ADEQ) by and
through the Arkansas Pollution Control and Ecology Commission

DEPARTMENT/AGENCY (APC&EC)

DIVISION Office of Land Resources (OLR)

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NAME OF PRESENTER AT COMMITTEE MEETING Jarrold Zweifel

PRESENTER EMAIL zweifel@adeq.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Regulation No. 12: Storage Tanks

2. What is the subject of the proposed rule? Storage Tanks. ADEQ proposes this rulemaking before the APC&EC to incorporate state law changes concerning storage tanks made by the Arkansas General Assembly, to include without limitation Acts 257, 534, and 584 of 2017; and federal regulatory changes promulgated by the United States Environmental Protection Agency (EPA) in the *Federal Register*, 80 FR 41566-41683, July 15, 2015, concerning 40 C.F.R. Parts 280-281.

3. Is this rule required to comply with a federal statute, rule, or regulation?

Yes ☒ No ☐
Federal Register, 80 FR
41566-41683, July 15,
2015, concerning 40 C.F.R.
Parts 280-281.

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes ☐

No ☒

If yes, what is the effective date of the emergency rule? Not applicable

When does the emergency rule expire? Not applicable

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No ☒

5. Is this a new rule? Yes ☐ No ☒

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes ☒ No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. § 8-7-802; Petroleum Storage Tank Trust Fund Act, Ark. Code Ann. § 8-7-901 et seq. , Acts 534 and 584 of 2017; and Reg.12.104(A).

7. What is the purpose of this proposed rule? Why is it necessary?

The proposed amendments are necessary to comply with changes to state law by the General Assembly, including Acts 257, 534, and 584 of 2017, and changes to the *Federal Register*, 80 FR 41566-41683, July 15, 2015, concerning 40 C.F.R. Parts 280-281. Changes to the regulation include:

- Revisions to Reg.12.109 to remove the one thousand foot (1,000') limitation related to secondary containment and monitoring for all new or replaced underground storage tanks, secondary containment and monitoring for all new or replaced piping connected to any underground storage tank, and an under-dispenser spill containment for all new or replacement motor fuel dispenser systems consistent with Act 534 of 2017;
- Revisions to Reg.12.201 to make the registration of aboveground storage tanks optional; to allow the owner or operator of an aboveground storage tank containing petroleum to be potentially eligible for reimbursement under the Petroleum Storage Tank Trust Fund Act if the tank is registered and all fees required under state law or regulation are paid consistent with Act 584 of 2017;

- Incorporates changes to 40 C.F.R. Parts 280-281 that concern airport hydrant fuel distribution systems and field constructed tanks, which are now defined as underground storage tanks, in Reg.12.104 by changing the date that Regulation 12 incorporates federal regulations by reference; and
- Minor revisions to include correcting typographical, grammatical, formatting, and stylistic errors, to include without limitation a minor change to Reg.12.320 required by Act 257 of 2017.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).
www.adeq.state.ar.us/regs/drafts/draft_regs.htm

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐
If yes, please complete the following:

Date: September 6, 2017

Time: 2:00 p.m.

Commission Room
ADEQ Headquarters
5301 Northshore Drive

Place: North Little Rock, AR 72118

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

The public comment period expires on September 20, 2017. However, after the public comment period, the regulation must be reviewed by the Legislative Committees and the APC&EC must adopt the final regulation. The earliest estimated time for APC&EC adoption is January 2018, with the effective date being ten (10) days after the APC&EC files with the Secretary of State, approximately February 2018.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

February 2018

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of "agency" under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). However, laws concerning the promulgation of regulations by the APC&EC do require public notice, a copy is attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of "agency" under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). Filing with the Secretary of State does not occur until after legislative review and adoption by the APC&EC.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None anticipated.