

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 12: STORAGE TANKS)**

DOCKET NO. 17-____-R

**PETITION TO INITIATE RULEMAKING TO AMEND
REGULATION NO. 12: STORAGE TANKS**

Comes now the Arkansas Department of Environmental Quality (ADEQ), by and through Janelle Evyan, for its Petition to Initiate Rulemaking to Amend Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation No. 12: Storage Tanks, states:

1. ADEQ initiates this rulemaking pursuant to Ark. Code Ann. § 8-7-802 and the Petroleum Storage Tank Trust Fund Act, § 8-7-901 *et seq.* to incorporate state law changes concerning storage tanks made by the Arkansas General Assembly from the 2017 Regular Session, to include without limitation Acts 257, 534, and 584; 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.

2. The proposed amendments that incorporate state law changes include:

A. 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; and

B. 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.

3. The proposed amendments that incorporate changes to 40 C.F.R. Parts 280-281 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.

4. ADEQ also proposes for inclusion in this rulemaking *de minimus* changes to the existing regulation to include correcting typographical, grammatical, formatting, and stylistic errors, to include without limitation a change required by Act 257 of 2017, the Arkansas Code Revision Commission's technical correction that requires a minor correction to Regulation 12.

5. Wanda Paes, Office of Land Resources, will be available to answer questions concerning this proposed rulemaking.

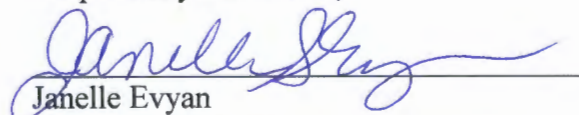
6. Exhibits attached to this petition and incorporated by reference include:

- A. A mark-up version of the regulation showing the proposed changes as Exhibit A;
- B. A copy of the Governor's approval as Exhibit B;
- C. A copy of the Bureau of Legislative Research (BLR) Questionnaire as Exhibit C;
- D. A copy of the BLR Financial Impact Statement as Exhibit D; and
- E. A proposed Minute Order as Exhibit E.

7. Pursuant to APC&EC Reg. 8.808(A)(2) and (4), the provisions of Reg. 8.812 do not apply and an Economic Impact/Environmental Benefit Analysis is not required because this proposed regulation incorporates and adopts language of Arkansas state statutes and federal regulation without substantive change and otherwise only makes *de minimus* changes.

WHEREFORE, ADEQ requests that the APC&EC initiate the rulemaking process, adopt the proposed Minute Order, and promulgate the proposed amendments to Regulation No. 12.

Respectfully Submitted,



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