

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 12, STORAGE TANK)
REGULATIONS)

DOCKET NO. 02-_____-R

PETITION TO INITIATE RULE-MAKING TO AMEND REGULATION NO. 12,
STORAGE TANK REGULATIONS

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rule-making to Amend Regulation No. 12 (“the Regulation”), Storage Tank Regulations, states:

1. Act 599 of 1999, Act 601 of 1999, Act 206 of 2001, Act 1471 of 2001, and federal revisions of 40 C.F.R. Part 280, made several changes to the regulatory provisions administered by the Commission and the Department. The Department proposes this rule-making primarily to make the provisions of Regulation 12 conform with the statutory language affected by these Acts, and to incorporate changes to federal standards made by EPA since 1999.
2. The proposed regulatory amendments precipitated by the above-referenced Acts and federal rule involve the following:
 - (A) Amendment of the Petroleum Storage Tank Trust Fund eligibility requirements for

reimbursement of corrective action costs and third-party claims;

(B) Amendment of the Petroleum Storage Tank Trust Fund eligibility requirements

to require storage tank owners to submit a tank self-inspection audit form;

(C) Adoption by reference of changes to EPA standards for underground storage tanks implemented through 40 C.F.R. Part 280;

(D) Decrease in the deductible amount for Petroleum Storage Tank Trust Fund coverage from \$15,000 to \$7,500 each, for corrective action costs and third-party claims;

(E) Changes to Trust Fund provisions to provide injured parties an appeal right of a Director's decision to the Commission; and

(F) Addition of bond forfeiture provision for instances where a licensee or contracting company fails to properly install, remove, repair, close, upgrade, or test any underground storage tank system pursuant to state law or regulation.

3. The Department proposes the following changes:

(A) Clarification of the Trust Fund third-party requirement regarding cooperation;

(B) Clarification of state requirements regarding timely notice of releases or suspected releases from storage tank systems;

(C) Clarification of the continuing education requirements applicable to licensees; and

(D) Clarification of the definition of "critical juncture" contained in Chapter Five, in the case of excavation during an installation, repair, upgrade, or closure

of an underground storage tank system.

4. Additionally, the Department proposes the following “housekeeping” changes:
 - (A) Renumbering of the regulation, to conform to the APC&E Commission regulation drafting guidelines; and
 - (B) Removal of Arkansas statutory references, wherever possible.
5. Jennifer Horton, from the Department’s Legal Division, Jim Shell, and/or Lynda Perry, from the RST Division, will be available to answer questions concerning this proposed rule-making. A red-lined version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A financial impact statement is attached as Exhibit “B” and is hereby incorporated by reference. The legislative questionnaire and a proposed Minute Order are attached hereto and incorporated herein as Exhibits “C” and “D”, respectively.

WHEREFORE, the ADEQ requests that the Commission initiate the rule-making process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation No. 12.

Respectfully Submitted,

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