



DIVISION OF ENVIRONMENTAL QUALITY

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Proposed amendment to APC & EC RULE 12: “STORAGE TANKS”

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PURPOSE AND AUTHORITY

The Department of Energy and Environment and the Division of Environmental Quality (DEQ) propose this rulemaking to modify Rule 12: “Storage Tanks.” This rulemaking is necessary to amend the current rule to implement new requirements set forth in Act 422 of 2023, which amended Arkansas law regarding underground storage tanks and the Petroleum Storage Tank Trust Fund. The Arkansas Pollution Control and Ecology Commission has general rulemaking authority through Ark. Code Ann. § 8-1-203(b)(1)(A), and specific authority to promulgate this rule through Ark. Code Ann. § 8-7-802(a)(1) and Ark. Code Ann. § 8-7-903(b).

BACKGROUND

Commission Rule 12: “Storage Tanks” regulates underground storage tank systems and certain aboveground storage tank systems to protect public health and the lands and waters of the State of Arkansas. The rule also was promulgated pursuant to the Petroleum Storage Tank Trust Fund Act to provide procedures to allow eligible owners or operators to obtain partial reimbursement for costs of corrective action taken in response to accidental release from qualified petroleum storage tank systems. The rule further regulates the licensure of persons who install, repair, upgrade and close underground storage tank systems. The rule further regulates the licensure of persons who test underground storage tank systems. The rule also provides a process by which operators of underground storage tank systems are trained and certified.

THE PROPOSED RULE AMENDMENTS

The proposed amendment to Rule 12: “Storage Tanks” amends the rule to conform to the increased reimbursement threshold from the Petroleum Storage Tank Trust Fund, pursuant to Act 422 of 2023. The act increased the amount of refunds available for corrective action from \$1,500,000 to \$2,000,000. Rules 12.512 and 12.610 were also amended to include provisions regarding lapsed licenses and reinstatement as required by Ark. Code Ann. § 17-1-107. Rules 12.513 and 12.611 were also amended to include provisions regarding reciprocity and provisional certificates as required by Ark. Code Ann. § 17-1-108. Section 12.302(E)(2) was also amended to reflect the current structure of the agency division.

NECESSITY AND PRACTICAL IMPACT OF RULE AMENDMENTS

The amendments to Rule 12 are necessary to implement changes in statutory requirements. Act 422 of 2023 increased the maximum amount of reimbursement that can be paid for any one occurrence from \$1,500,000 to \$2,000,000. Rule 12.306, Amount of Reimbursement, must be amended to reflect this statutory change. The practical impact of this amendment will allow

qualified claimants to receive additional funds from the Petroleum Storage Tank Trust Fund for any one occurrence, in conformance with Arkansas law.

Rules 12.512 and 12.610 were amended to implement provisions regarding lapsed licenses and reinstatement required by Ark. Code Ann. § 17-1-107. This change will allow licensees a more expeditious process to reinstate lapsed licenses.

Finally, Rules 12.513 and 12.611 were amended to include provisions regarding reciprocity and provisional licenses as required by Ark. Code Ann. § 17-1-108. This modification allows license applicants who hold the same or similar license from out of state to apply for and receive a license in Arkansas. The provisional license will allow applicants from out of state to immediately be employed while the application is pending.

RECOMMENDATION

The Department of Energy and Environment recommends that the proposed amendments to Rule 12: “Storage Tanks,” be approved.