

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 282 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/17/09

A Bill

HOUSE BILL 1416

5 By: Representative Reep
6 By: Senator P. Malone
7
8

9 **For An Act To Be Entitled**

10 AN ACT TO ELIMINATE ANNUAL SELF-AUDIT REPORTING
11 FOR REGULATED STORAGE TANK OWNERS AND OPERATORS;
12 AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 AN ACT TO ELIMINATE ANNUAL SELF-AUDIT
16 REPORTING FOR REGULATED STORAGE TANK
17 OWNERS AND OPERATORS.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 *SECTION 1. Arkansas Code § 8-7-801(13) – (14), concerning the*
23 *definition of a storage tank self-inspection audit, is amended to read as*
24 *follows:*

25 ~~*(13)(A) “Storage tank self-inspection audit” means a checklist*~~
26 ~~*or form issued by the department addressing the compliance status of a*~~
27 ~~*storage tank that the owner or operator completes on an annual basis.*~~

28 ~~*(B) The storage tank self-inspection audit shall accompany or be*~~
29 ~~*a part of other documents the department requires the owner or operator to*~~
30 ~~*execute on an annual basis; and*~~

31 ~~*(14)*~~ *(13)* *“Underground storage tank” means any one (1) or combination*
32 *of tanks, including underground pipes connected thereto, which is or has been*
33 *used to contain an accumulation of regulated substances, and the volume of*
34 *which, including the volume of the underground pipes connected thereto, is*
35 *ten percent (10%) or more beneath the surface of the ground. Such term does*



1 not include any:

2 (A) Farm or residential tank of one thousand one hundred
3 gallons (1,100 gals.) or less capacity used for storing motor fuel for
4 noncommercial purposes;

5 (B) Tank used for storing heating oil for consumptive use
6 on the premises where stored;

7 (C) Septic tank;

8 (D) Pipeline facility, including gathering lines,
9 regulated under:

10 (i) The Natural Gas Pipeline Safety Act of 1968; and
11 (ii) The Hazardous Liquid Pipeline Safety Act of
12 1979;

13 (E) Surface impoundment, pit, pond, or lagoon;

14 (F) Storm water or wastewater collection system;

15 (G) Flow-through process tank;

16 (H) Liquid trap or associated gathering lines directly
17 related to oil or gas production and gathering operations;

18 (I) Storage tank situated in an underground area, such as
19 a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank
20 is situated upon or above the surface of the floor; or

21 (J) Pipes connected to any tank that is described in
22 subdivisions ~~(14)~~(13) (A)-(I) of this section.

23

24 SECTION 2. Arkansas Code § 8-7-815 is repealed.

25 ~~8-7-815. Storage tank self-inspection audit.~~

26 ~~(a) All owners and operators of storage tanks shall complete and~~
27 ~~submit an annual storage tank self-inspection audit in a manner and in~~
28 ~~accordance with a schedule determined by the Arkansas Department of~~
29 ~~Environmental Quality.~~

30 ~~(b) The department shall implement the requirements of this section in~~
31 ~~a manner that allows the storage tank self-inspection audit to accompany or~~
32 ~~be part of other documents the department requires to be submitted on an~~
33 ~~annual basis.~~

34 ~~(c) The storage tank self-inspection audit is not encompassed by the~~
35 ~~environmental audit report privilege provided by §§ 8-1-301—8-1-312.~~

36

1 SECTION 3. Arkansas Code § 8-7-902(17) - (20), concerning the
2 definition of a storage tank self-inspection audit, is amended to read as
3 follows:

4 ~~(17)(A) "Storage tank self-inspection audit" means a checklist~~
5 ~~or form issued by the department addressing the compliance status of a~~
6 ~~storage tank that the owner or operator completes on an annual basis.~~

7 ~~(B) The storage tank self-inspection audit shall accompany or be~~
8 ~~a part of other documents the department requires the owner or operator to~~
9 ~~execute on an annual basis;~~

10 ~~(18)~~(17)(A) "Supplier" means any person who is customarily in
11 the wholesale business of offering distillate special fuels or liquefied gas
12 special fuels for resale or use to any person in this state and who makes
13 bulk sales of fuel.

14 (B) The term "supplier" shall include pipeline importers,
15 first receivers, and second receivers;

16 ~~(19)~~(18) "Terminal" means a bulk storage facility for storing
17 petroleum products supplied by pipeline or marine vessels;

18 ~~(20)~~(19)(A) "Underground storage tank" means any one (1) or a
19 combination of tanks, including underground pipes connected thereto, that is
20 or has been used to contain petroleum, and the volume of which, including the
21 volume of the underground pipes connected thereto, is ten percent (10%) or
22 more beneath the surface of the ground.

23 (B) The term "underground storage tank" does not include
24 any:

25 (i) Farm or residential tank of one thousand one
26 hundred gallons (1,100 gals.) or less capacity used for storing motor fuel
27 for noncommercial purposes;

28 (ii) Tank used for storing heating oil for
29 consumptive use on the premises where stored;

30 (iii) Septic tank;

31 (iv) Intrastate and interstate pipeline facilities
32 regulated by the Arkansas Public Service Commission or other applicable state
33 or federal agency and all other pipeline facilities, including gathering
34 lines regulated under:

35 (a) The Natural Gas Pipeline Safety Act of 1968; or

36 (b) The Hazardous Liquid Pipeline Safety Act of

1 1979;

2 (v) Surface impoundment, pit, pond, or lagoon;

3 (vi) Storm water or wastewater collection system;

4 (vii) Flow-through process tank;

5 (viii) Liquid trap or associated gather lines directly
6 related to oil or gas production and gathering operations;

7 (ix) Storage tank situated in an underground area, such as
8 a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank
9 is situated upon or above the surface of the floor; or

10 (x) Any pipes connected to any tank which is described in
11 subdivision ~~(20)~~(19)(B) of this section; and

12
13 SECTION 4. Arkansas Code § 8-7-907(c) - (e), concerning payments for
14 corrective action, is amended to read as follows:

15 (c) All payments for corrective action expenses of the owner or
16 operator shall be made only following proof that:

17 (1) At the time of discovery of the release, the owner or
18 operator had paid all fees required under state law or regulations applicable
19 to petroleum storage tanks;

20 (2) The corrective action expenses submitted for reimbursement
21 consist of items and amounts that are in accord and compliant with Arkansas
22 Department of Environmental Quality regulations; and

23 (3) The owner or operator cooperated fully with the department
24 in corrective action to address the release; ~~and~~

25 ~~(4) The owner or operator submits a storage tank self-inspection~~
26 ~~audit as required by § 8-7-815.~~

27 (d) Payment for corrective action may be denied, ~~if the storage tank~~
28 ~~owner or operator:~~

29 ~~(1) Fails~~ fails to report a release as required by regulation
30 promulgated by the Arkansas Pollution Control and Ecology Commission, and the
31 failure to report the release causes a delay in the corrective action that
32 contributes to an adverse impact to the environment; ~~or~~

33 ~~(2) Submits an inaccurate storage tank self-inspection audit~~
34 ~~that results in a delay in the corrective action of a release, and the delay~~
35 ~~contributes to an adverse impact to the environment.~~

36 (e)(1) The commission may provide through rule and regulation for

1 *interim payments for corrective action.*

2 *(2) Interim payments shall be subject to these limitations:*

3 *(A) Proof of compliance with the requirements of*
4 *subdivisions (c)(1)-~~(4)~~(3) of this section must be provided;*

5 *(B) Specific assurances must be provided that an approved*
6 *corrective action plan, department directive, or order is being implemented*
7 *and followed to date; and*

8 *(C)(i) Interim payments shall consist of payment of an*
9 *amount not to exceed ninety percent (90%) of one million five hundred*
10 *thousand dollars (\$1,500,000).*

11 *(ii) The remaining ten percent (10%) shall be released*
12 *only upon final payment for corrective action concerning the occurrence.*

13
14 *SECTION 5. Arkansas Code § 8-7-907(g)(1), concerning payments for*
15 *corrective action, is amended to read as follows:*

16 *(g)(1) Unknown petroleum storage tanks that have satisfied the*
17 *requirements of subdivisions (c)(1) ~~and (4)~~ - (3) of this section shall be*
18 *eligible for reimbursement for corrective action as provided by this section*
19 *if:*

20
21 */s/ Reep*

22
23 **APPROVED: 3/03/2009**