

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.

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

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

Subtitle

14 AN ACT TO ELIMINATE ANNUAL SELF-AUDIT
15 REPORTING FOR REGULATED STORAGE TANK
16 OWNERS AND OPERATORS.
17
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*
36 *not include any:*



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

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

6 (C) Septic tank;

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

9 (i) The Natural Gas Pipeline Safety Act of 1968; and

10 (ii) The Hazardous Liquid Pipeline Safety Act of
11 1979;

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

13 (F) Storm water or wastewater collection system;

14 (G) Flow-through process tank;

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

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

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

22
23 SECTION 2. Arkansas Code § 8-7-815 is repealed.

24 ~~8-7-815. Storage tank self-inspection audit.~~

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

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

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

35
36 SECTION 3. Arkansas Code § 8-7-902(17) - (20), concerning the

1 definition of a storage tank self-inspection audit, is amended to read as
2 follows:

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

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

9 ~~(18)~~(17)(A) "Supplier" means any person who is customarily in
10 the wholesale business of offering distillate special fuels or liquefied gas
11 special fuels for resale or use to any person in this state and who makes
12 bulk sales of fuel.

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

15 ~~(19)~~(18) "Terminal" means a bulk storage facility for storing
16 petroleum products supplied by pipeline or marine vessels;

17 ~~(20)~~(19)(A) "Underground storage tank" means any one (1) or a
18 combination of tanks, including underground pipes connected thereto, that is
19 or has been used to contain petroleum, and the volume of which, including the
20 volume of the underground pipes connected thereto, is ten percent (10%) or
21 more beneath the surface of the ground.

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

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

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

29 (iii) Septic tank;

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

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

35 (b) The Hazardous Liquid Pipeline Safety Act of
36 1979;

- 1 (v) Surface impoundment, pit, pond, or lagoon;
 2 (vi) Storm water or wastewater collection system;
 3 (vii) Flow-through process tank;
 4 (viii) Liquid trap or associated gather lines directly
 5 related to oil or gas production and gathering operations;
 6 (ix) Storage tank situated in an underground area, such as
 7 a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank
 8 is situated upon or above the surface of the floor; or
 9 (x) Any pipes connected to any tank which is described in
 10 subdivision ~~(20)~~(19)(B) of this section; and
 11

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

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

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

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

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

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

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

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

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

35 (e)(1) The commission may provide through rule and regulation for
 36 interim payments for corrective action.

