

91st Arkansas General Assembly: Underground Storage Tanks/Secondary Containment



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Representative Eaves introduced House Bill (“HB”) 1635 which amends the Arkansas Code in regards to underground storage tanks (“USTs”) and secondary containment.

The legislation addresses issues associated with the federal Resource Conservation Recovery Act Subtitle I UST program.

Arkansas has primacy and has been previously delegated the Subtitle I UST regulatory authorities. Therefore, as a delegated state, Arkansas must amend its rules to meet the federal baseline requirements. The United States Environmental Protection Agency (“EPA”) had previously promulgated the first set of significant revisions to UST rules a number of months ago since they were originally established in the late ‘80s.

One of the issues to be addressed by these federal revisions is whether Arkansas legislation was needed to be submitted to the Arkansas General Assembly to accommodate them. Specifically, Arkansas has existing legislation that specifies when the replacement of UST piping triggers a requirement to install secondary containment for the system’s piping. See Ark. Code Ann. 8-7-816 stating:

(3). . .with respect to piping, “replace” means to remove and put back in more than five feet (5’) of piping associated with single underground storage tank. . .

The federal regulations provide ADEQ and other states the option to use a different standard.

It is my understanding that this legislation is the Arkansas Department of Environmental Quality’s bill and addresses the wishes of a number of stakeholders who have suggested a different option (i.e., a 50 percent test) which would trigger replacement based on a percentage. The choice of this alternative standard necessitated the change in the previously referenced Arkansas Code provision. As a result, the language in Ark. Code Ann. 8-7-816(a)(b) and (c) which references USTs within 1,000 feet of an existing community water system or an existing potable drinking water well would be deleted by this bill.

HB 1635 has been referred to the Public Health, Welfare and Labor Committee.

[A copy of the bill can be downloaded here.](#)