



DIVISION OF ENVIRONMENTAL PROTECTION

GASTON CAPERTON
GOVERNOR

10 McJunkin Road
Nitro, WV 25143-2506

DAVID C. CALLAGHAN
DIRECTOR

August 15, 1994

Ms. Judy Cooper
Director, Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
Charleston, West Virginia 25305

RE: CSR-47-36 - Underground Storage Tanks

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule with your Office and with Legislative Rule-Making Review Committee as an agency approved rule.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "D. Callaghan".

David C. Callaghan
Commissioner
Bureau of Environment

DCC;RTH:cc

Attachment

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 47, Series 36, "Underground Storage Tanks"

Type of Rule: X Legislative Interpretive Procedural

Agency Bureau of Environment

Address Division of Environmental Protection/Office of Waste Management
1356 Hansford Street
Charleston, WV 25301-1401

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. **Explanation of above estimates:** These regulations expand the already existing carrier rule in 47-36-5.1. No new administrative expenditures are anticipated.
3. **Objectives of these rules:** To promote a level playing field among the petroleum retail outlets by providing an alternative means of enforcing the federal and state financial responsibility requirements.

Rule Title: Title 47, Series 36, "Underground Storage Tanks"

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

No impact.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens. The rule requires that no product be delivered to underground tank facilities which are not in compliance. This will shut down petroleum retail outlets which are not in compliance.

C. Economic Impact on Citizens/Public at Large. Some petroleum retail outlets in the state will not be in operation until they are able to comply with the financial responsibility requirements.

Date: July 12 1994

Signature of Agency Head or Authorized Representative

David C. Callaghan
David C. Callaghan
Commissioner, Bureau of Environment

DATE: August 15, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: W.Va. Division of Environmental Protection
Office of Waste Management

LEGISLATIVE RULE TITLE: Title 47, Series 36, "Underground Storage Tanks"

1. Authorizing statute(s) citation W.Va. Code, § 22-17-6

2. a. Date filed in State Register with Notice of Hearing:
July 13, 1994

- b. What other notice, including advertising, did you give of the hearing?
News Release - July 20, 1994

- c. Date of hearing(s): August 15, 1994

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached _____ No comments received x

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact)
August 15, 1994

- f. Name and phone number(s) of agency person(s) to contact for additional information:
Gil W. Sattler, 558-6371

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N / A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N / A

d. Attach findings and determinations and reasons:

Attached _____

TITLE 47
LEGISLATIVE RULES
~~DEPARTMENT OF COMMERCE, LABOR, AND ENVIRONMENTAL RESOURCES~~
BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION

SERIES 36
UNDERGROUND STORAGE TANKS

§47-36-1. General.

1.1. Scope and Purpose. --This legislative rule establishes regulations to govern the construction, installation, upgrading, use, maintenance, and closure of underground storage tanks in this State.

1.2. Authority. --W. Va. Code ~~§20-5H-6~~, §22-17-6

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Determination of Stringency. This rule is no more stringent than the federal counterpart regulation; however, the rule may be considered to be broader in scope.

1.6. Constitutional Takings Determination. No constitutional takings of real property are anticipated as a result of this rule.

§47-36-2. Adoption of Federal Regulations.

2.1. The director hereby adopts and incorporates by reference the provisions contained in 40 C.F.R. Part 280 as published in the Code of Federal Regulations on July 1, ~~1993~~ 1994, with the following modifications:

2.1.1. The definition of "Implementing Agency" that appears in 40 C.F.R. §280.12 shall be deleted and replaced by "Implementing Agency means the West Virginia Division of Environmental Protection."

2.1.2. The provisions contained in 40 C.F.R. §280.20(e) shall be deleted and replaced by Section 3 of this rule.

2.1.3. The provisions contained in 40 C.F.R. §280.22 shall be deleted and replaced by Section 4 of this rule.

2.1.4. The phrase "section 9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended" that appears in 40 C.F.R. §280.34 shall be deleted and replaced by the phrase "~~W. Va. Code §20-5H-13.~~" W. Va. Code §22-17-13".

2.1.5. The provisions contained in 40 C.F.R. §280.34(a)(1) shall be deleted and replaced by "(1) Notification in accordance with the provisions of Section 4 of this rule".

§47-36-3. Certification Requirements for Individuals Who Install, Repair, Retrofit, Upgrade, Perform Change-in-Service or Close Underground Storage Tank Systems.

3.1. The requirements of this Section apply to individuals engaged in underground storage tank system installation, repair, retrofitting, upgrading, change-in-service, or closure.

3.2. After December 31, 1994, no individual shall conduct an underground storage tank system installation, repair, retrofit, upgrade, change-in-service or closure unless an individual present at the underground storage tank system site and exercising responsible supervisory control over the installation, repair, retrofit, upgrade, change-in-service, or closure is currently certified by the director in accordance with this Section. The underground storage tank system owner and operator must ensure that the individual supervising the installation, repair, retrofitting, upgrade, change-in-service and/or closure is certified by the director.

3.2.1. An individual who holds a current certificate issued by the director shall be present at all times during:

3.2.1.a. The installation process involving the preparation of the excavation immediately prior to receiving backfill and the tank, the setting of the tank and the piping (including placement of any anchoring devices), backfilling to the level of the tank, strapping, anytime during the installation in which piping components are connected, all testing of the underground storage tank and piping performed during the installation, completion of the backfill and filling of the excavation, and installation of release detection devices within the excavation zone;

3.2.1.b. The repair, retrofitting or upgrading process involving the excavation of existing tanks and/or piping, the actual performance of repairs to the tank and/or piping, anytime during the process when components of the piping are connected, anytime during the repair process when the tank and/or associated piping are tested and at anytime during the process when equipment is connected to the tank and/or piping; and

3.2.1.c. The change-in-service or closure process involving the process of vapor removal, purging, inerting, cleaning and all subsurface sample collection events.

3.3. The underground storage tank system certificates issued by the director will address the following categories:

3.3.1. A Class A certificate will allow the individual certified to install, repair, retrofit or upgrade an underground storage tank system; and

3.3.2. A Class B certificate will allow the individual certified to perform a change-in-service or close an underground storage tank system.

3.4. An individual applying for a Class A and/or Class B certificate must file a written application on a form supplied by the director showing the director that he or she meets the following requirements:

3.4.1. The applicant must be an individual. Businesses or corporations may not be certified;

3.4.2. The applicant need not be a resident of West Virginia;

3.4.3. The applicant shall demonstrate ethical practice. The demonstration shall consist of providing to the director written statements from two (2) personal references and two (2) business references attesting to the applicant's ethical practices. In addition, the director may conduct a police check and checks with other certification or licensing boards with which the applicant is registered to determine the nature of violations of Federal, State or local laws and regulations relating to the applicant's performance in an ethical and competent manner. The director may deny the applicant's certification based upon the documentary evidence obtained pursuant to this subdivision;

3.4.4. The applicant must demonstrate two (2) years of experience in underground storage tank system installation, repair, retrofitting, upgrading, performance of a change-in-service and closure conducted after December 22, 1988, as is applicable to the Class A and/or B certificate. Closely related work experience may be substituted on a year for year basis upon approval by the director. The applicant may ~~substitutue~~ substitute a civil or mechanical engineering degree from a recognized college or university for the required experience;

3.4.4.a. Applicants shall provide the director a listing of the work performed, site locations, and the names of the companies or employers for whom the work was performed;

3.4.5 No applicant shall be issued a certificate unless he or she has successfully passed a written examination administered by the director;

3.4.5.a. Examinations administered to applicants for certification shall be written, multiple choice examinations. The Director shall derive the questions used in the examination from standards, instructions, industry recommended practices and State and Federal laws and regulations pertaining to underground storage tank system installation, repair, retrofitting, upgrading, change-in-service and closure. The director can make available to applicants alternative testing procedures;

3.4.5.b. Beginning after July 1, 1994, the director or persons designated by the director shall conduct written examinations at such times and locations within the state as the director may consider necessary;

3.4.5.c. Applicants for certification must correctly answer not less than 80 percent of the questions in a category of certification to qualify for that category of certification; and

3.4.5.d. No applicant may take an examination more than three (3) times within a 12 month period. Applications are considered current for a period of one year from the date they are received by the director. After one year, a new application must be filed and the application examination fee paid; and

3.4.6. At the time of the examination the applicant shall remit a nonrefundable \$75 fee by check or money order. This fee shall be deposited in the Underground Storage Tank Administrative Fund. A fee of \$35 shall be assessed for each retesting within the same year.

3.5. All certificates and certificate renewals expire December 31 of every second year. Applications for certificate renewal and payment of a nonrefundable renewal fee of \$50 must be submitted to the director by November 1 of the year in which the certificate expires. An individual whose certificate has expired prior to his or her submission of an application for renewal is considered a new applicant for certification.

3.5.1. An individual may renew his or her certificate for another two (2) year period by:

3.5.1.a. Paying the renewal fee; and

3.5.1.b. Submitting on a form supplied by the director a certificate renewal application demonstrating that he or she has completed sixteen (16) hours of director approved continuing education training courses:

3.5.1.b.A. The continued education training course must be relevant to the subject area of installation, repair, retrofitting, upgrading, change-in-service, closure or the regulation of underground storage tank systems as it relates to the category of certification and offer instruction on the most current generally acceptable technology or methods for these subjects; and

3.5.1.b.B. Applications for approval of specific training programs shall be submitted by the training provider to the director in writing. The submissions shall contain a complete course outline, training material, sample certificates, the methodology for verifying attendance, the date, time and location of the course, the name of the offering organization, the credentials of the instructors, and a certification that the technology or methods that will be presented in the training program will satisfy state and federal laws governing underground storage tank system installation, repair, retrofitting, upgrading, change-in-service, or closure; or

3.5.1.c. Submitting on a form supplied by the director a certificate renewal application and successfully passing the written examination described in Section 3.4.5. of this rule. At the time of the examination, the applicant applying for renewal must remit a nonrefundable \$50 fee by check or money order.

3.6. Upon issuance of the certification the director shall issue an identification card to the successful applicant that shows the individual's name, social security number, certificate issuance date, certificate expiration date, certification number and the class of certification.

3.6.1. An individual who holds a current certificate shall present his or her identification card upon request by a representative of the director or the owner or operator of the underground storage tank system for which an installation, repair, retrofit, upgrade, change-in-service or closure is to be conducted.

3.7. Should an applicant be denied issuance or renewal of certification or should the individual's certificate be revoked, the reason or reasons for the denial or revocation shall be set forth in writing to the individual by the director.

3.7.1. Possible reasons for denial of issuance of certification, renewal of certification or revocation of certification may include, but are not limited to, failure to achieve a passing score on the written examination described in Section 3.4.5. of this rule, failure to submit required documentation, previous revocation of certification held by the applicant, evidence of fraud or deceit with respect to the certification application, failure to present the identification card upon request of a director's representative, violations of the laws or rules of West Virginia, for ethical considerations enumerated in Section 3.4.3. of this rule, and/or any other cause that, in the opinion of the director, constitutes adequate grounds for denial or revocation of a certificate.

3.7.2. An individual who has been denied issuance or renewal of certification or who has had a certificate revoked may appeal the action to the ~~Water Resources Board~~, Environmental Quality Board.

3.8. Any individual who violates the provision of Section 3 of this rule is subject to enforcement action under WV Code ~~§20-5H-1~~ §22-17-1 et seq.

§47-36-4. Notification Requirements.

4.1. Except as provided in Section 4.1.1, 4.1.2, or 4.1.3 of this rule, the owner or operator of an underground storage tank system that was in the ground prior to May 1, 1990, must submit a notice of the existence of such tank system to the director by completing the form prescribed in Appendix I of this rule.

4.1.1. The owner or operator of an underground storage tank system that was in the ground prior to May 1, 1990, is exempt from the notification requirements of Section 4.1 of this rule if notice was previously given to the director in accordance with the provisions of the federal Hazardous and Solid Waste Amendments of 1984 on the form published in the Federal Register on November 8, 1985 (50 F.R. 46602), unless such notice was given pursuant to Section 103(c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

4.1.2. The owner or operator of an underground storage tank system that was removed from the ground on or before May 8, 1986, is exempt from the notification requirements of Section 4.1 of this rule.

4.1.3. The owner or operator of an underground storage tank that was installed ~~on or~~ before December 22, 1988, need only complete Sections I through X of the form prescribed in Appendix I of these regulations. Tank systems installed on or after December 22, 1988, must comply with the provisions of Section 4.2 of this rule.

4.2. All owners and operators of underground storage tank systems installed on or after December 22, 1988, must provide the director, in addition to the provisions of Section 4.1.3 of this rule, notification of compliance with the following requirements:

4.2.1. For underground storage tank systems installed on or after December 22, 1988, and before January 1, 1995, installation of tanks and piping as certified under Section XI of the form prescribed in Appendix I of these regulations, excluding Item B (Installer certified or licensed by the implementing agency) under Section 1 (Installation) of Part XI (Certification of Compliance).

4.2.2. For underground storage tank systems installed on or after January 1, 1995, installation of tanks and piping by an individual certified by the director in accordance with Section 3 of these regulations.

4.2.3. Cathodic protection of steel tanks and piping in accordance with the provisions of 40 C.F.R. §§280.20(a) and 280.20(b).

4.2.4. Spill and overflow prevention equipment in accordance with the provisions of 40 C.F.R. §280.20(c).

4.2.5. Financial responsibility in accordance with the provisions of 40 C.F.R. Part 280 Subpart H.

4.2.6. Release detection in accordance with the provisions of 40 C.F.R. §§280.41 and 280.42.

4.3. All owners and operators of underground storage tank systems to be installed on or after the effective date of this rule must notify the director in writing at least thirty (30) days prior to beginning the installation. The thirty (30) day time period may be waived when such action is in response to a release from an existing UST system on the site.

4.4. All owners and operators of UST systems must ensure that:

4.4.1. When the system was installed ~~between~~ on or after December 22, 1988, and before January 1, 1995, the installer certifies, in the notification form, that the methods used to install the tanks and piping comply with the requirements of 40 C.F.R. §280.20(d); and

4.4.2. When the system was installed on or after January 1, 1995, the installation of tanks and piping was performed by an individual certified by the director in accordance with Section 3 of these regulations. The installer must certify in the notification form that the methods used to install the tanks and piping comply with the requirements of 40 C.F.R. 280.20(a) through (d).

4.5. An owner or operator who is required to submit notices under Section 4 of these regulations may provide notice for several tanks by using one notification form, but an owner of tanks located at more than one place of operation must file a separate notification form for each separate place of operation.

4.6. After June 10, 1988, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of the tank of the owner's notification obligations under Section 4 of these regulations. The following notice may be used to comply with the requirement:

"NOTICE: Owners of certain underground storage tanks in West Virginia are required by law to notify the director of the Division of Environmental Protection of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within thirty (30) days. Consult the Division's Underground Storage Tank Rule (47 C.S.R. 36) to determine if you must provide this notification."

4.6.1. Any person who sells an existing tank intended to be used as an underground storage tank must notify the director in writing at least thirty (30) days prior to the transfer of ownership.

4.7. Except as provided in Section 4.6.1 of these regulations, the owner or operator must report changes in the status of any underground storage tank system by completing the form prescribed in Appendix I of these regulations and then submitting that form to the director by December 31 of the year in which the change of status occurred.

4.7.1. A new owner of an underground storage tank must provide notification of the transfer of ownership of that tank by completing the form prescribed in Appendix I of these regulations and then submitting that form to the director within thirty (30) days of the transfer.

§47-36-5. Carriers.

5.1. Carriers (private, common, or for-hire) of regulated substances shall not deliver regulated substances into an underground storage tank unless the division has certified that the underground storage tank owner or operator is in compliance with the requirements of: the Underground Storage Tank Fee Assessments (47 C.S.R. 37), Notification Requirements (47 C.S.R. 36 Section 4); and Capitalization Fee Requirements (47 C.S.R. 37A Section 5) and the owner or operator presents proof of the this certification to the carrier, along with proof of financial responsibility in compliance with 40 C.F.R. Part 280 Subpart H to the carrier.

5.2. Any carrier who violates the provision of Section 5.1 of these regulations is subject to enforcement action under WV Code ~~§20-54-1~~ §22-17-1 et seq.

Notification for Underground Storage Tanks	STATE USE ONLY
<small>State Agency Name and Address</small> WV Div. of Environmental Protection, Office of Waste Mgmt., UST Section 1356 Hanford Street, Charleston, WV 25301	ID NUMBER _____
TYPE OF NOTIFICATION	F.E.I.N. No. _____
<input type="checkbox"/> A. NEW FACILITY <input type="checkbox"/> B. AMENDED <input type="checkbox"/> C. CLOSURE	A. Date Entered into Computer _____
_____ No. of tanks at facility _____ No. of continuation sheets attached	B. Data Entry Clerk Initials _____
INSTRUCTIONS	C. Owner Was Contacted to Clarify Responses, Comments
Please type or print in ink all items except "signature" in section VIII. This form must be completed for each location containing underground storage tanks. If more than five (5) tanks are owned at this location, photocopy the following sheets, and staple continuation sheets to the form.	_____

GENERAL INFORMATION

Notification is required by Federal law for all underground tanks that have been used to store regulated substances, that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act, (RCRA), as amended.

The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records, or in the absence of such records, your knowledge, belief, or recollection.

Who Must Notify? Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means—

a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and

b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

c) if the State agency so requires, any facility that has undergone any changes to facility information or tank system status (only amended tank information needs to be included).

What Tanks Are Included? Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances," and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: 1. Gasoline, used oil, or diesel fuel, and 2. industrial solvents, pesticides, herbicides or fumigants.

What Tanks Are Excluded? Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. tanks used for storing heating oil for consumptive use on the premises where stored;

3. septic tanks;
4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an interstate pipeline facility regulated under State laws;
5. surface impoundments, pits, ponds, or lagoons;
6. storm water or waste water collection systems;
7. flow-through process tanks;
8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;
9. storage tanks situated in an underground area (such as a basement, cellar, mineworking, shaft, tunnel, or tunnel) if the storage tank is situated upon or above the surface of the floor.

What Substances Are Covered? The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subtitle C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is found at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

Where To Notify? Send completed forms to:

WV Division of Environmental Protection
Office of Waste Management
UST Section
1356 Hanford Street
Charleston, WV 25301

When To Notify? 1. Owners of underground storage tanks in use or that have been taken out of operation, but still in the ground, must notify by May 8, 1986. 2. Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use. 3. If the State requires notification of any amendments to facility send information to State agency immediately.

Penalties: Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or for which false information is submitted.

I. OWNERSHIP OF TANK(S)

II. LOCATION OF TANK(S)

<p><small>Owner Name (Corporation, Individual, Public Agency, or Other Entity)</small></p> <p>_____</p> <p><small>Street Address</small></p> <p>_____</p> <p>_____</p> <p><small>City</small> <small>State</small> <small>ZIP Code</small></p> <p>_____</p> <p><small>County</small></p> <p>_____</p> <p><small>Phone Number (include Area Code)</small></p> <p>_____</p>	<p><small>If required by State, give the geographic location of tanks by degrees, minutes, and seconds. Examples Lat. 42, 36', 12" N Long. 85, 24', 17" W</small></p> <p><small>Latitude</small> _____ <small>Longitude</small> _____</p> <p style="text-align: center;">(if same as Section I, mark box here <input type="checkbox"/>)</p> <p><small>Facility Name or Company Site Identifier, as applicable</small></p> <p>_____</p> <p><small>Street Address (P.O. Box not acceptable)</small></p> <p>_____</p> <p>_____</p> <p><small>City</small> <small>State</small> <small>ZIP Code</small></p> <p>_____</p> <p><small>County</small> <small>Municipality</small></p> <p>_____</p>
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III. TYPE OF OWNER	IV. INDIAN LANDS	
<input type="checkbox"/> Federal Government <input type="checkbox"/> Commercial <input type="checkbox"/> State Government <input type="checkbox"/> Private <input type="checkbox"/> Local Government	Tanks are located on land within an Indian Reservation or on other trust lands. <input type="checkbox"/> Tanks are owned by native American nation, tribe, or individual. <input type="checkbox"/>	Tribe or Nation: _____ _____

V. TYPE OF FACILITY		
Select the Appropriate Facility Description		
<input type="checkbox"/> Gas Station <input type="checkbox"/> Petroleum Distributor <input type="checkbox"/> Air Taxi (Airline) <input type="checkbox"/> Aircraft Owner <input type="checkbox"/> Auto Dealership	<input type="checkbox"/> Railroad <input type="checkbox"/> Federal - Non-Military <input type="checkbox"/> Federal - Military <input type="checkbox"/> Industrial <input type="checkbox"/> Contractor	<input type="checkbox"/> Trucking/Transport <input type="checkbox"/> Utilities <input type="checkbox"/> Residential <input type="checkbox"/> Farm <input type="checkbox"/> Other (Explain) _____

VI. CONTACT PERSON IN CHARGE OF TANKS			
Name	Job Title	Address	Phone Number (Include Area Code)

VII. FINANCIAL RESPONSIBILITY		
I have met the financial responsibility requirements in accordance with 40 CFR Subpart H		<input type="checkbox"/>
Check All that Apply <input type="checkbox"/> Self Insurance <input type="checkbox"/> Commercial Insurance <input type="checkbox"/> Risk Retention Group	<input type="checkbox"/> Guarantee <input type="checkbox"/> Surety Bond <input type="checkbox"/> Letter of Credit	<input type="checkbox"/> State Funds <input type="checkbox"/> Trust Fund <input type="checkbox"/> Other Method Allowed Specify _____

VIII. CERTIFICATION (Read and sign after completing all sections)		
I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.		
Name and official title of owner or owner's authorized representative (Print)	Signature	Date Signed

EPA estimates public reporting burden for this form to average 30 minutes per response including time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding this burden estimate to Chief, Information Policy Branch PM-223, U.S. Environmental Protection Agency, 401 M Street, Washington D.C. 20460, marked "Attention Desk Officer for EPA." This form amends the previous notification form as printed in 40 CFR Part 280, Appendix I. Previous editions of this notification form may be used while supplies last.

IX. DESCRIPTION OF UNDERGROUND STORAGE TANKS (Complete for each tank at this location.)

Tank Identification Number	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____
1. Status of Tank (mark only one)	Currently in Use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Temporarily Out of Use <small>(Remember to fill out section X.)</small>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Permanently Out of Use: <small>(Remember to fill out section X.)</small>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Amendment of Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Date of Installation (mo./year)					
3. Estimated Total Capacity (gallons)					
4. Material of Construction (Mark all that apply)	Asphalt Coated or Bare Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cathodically Protected Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Epoxy Coated Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Composite (Steel with Fiberglass)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Fiberglass Reinforced Plastic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Lined Interior	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Double Walled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Polyethylene Tank Jacket	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Concrete	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Excavation Liner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Other, Please specify	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Has tank been repaired?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Piping (Material) (Mark all that apply)	Bare Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Galvanized Steel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Fiberglass Reinforced Plastic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Copper	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Cathodically Protected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Double Walled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Secondary Containment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Unknown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other, Please specify	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Piping (Type) (Mark all that apply)	Suction: no valve at tank	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Suction: valve at tank	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Pressure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Gravity Feed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Has piping been repaired?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Tank Identification Number	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____
7. Substance Currently or Last Stored In Greatest Quantity by Volume					
Gasoline	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Diesel	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Gasohol	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Kerosene	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Heating Oil	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Used Oil	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other, Please specify	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Hazardous Substance CERCLA name and/or, CAS number	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Mixture of Substances Please specify	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
X. TANKS OUT OF USE, OR CHANGE IN SERVICE					
1. Closing of Tank					
A. Estimated date last used (mo./day/year)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
B. Estimate date tank closed (mo./day/year)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
C. Tank was removed from ground	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
D. Tank was closed in ground	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
E. Tank filled with inert material Describe	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
F. Change in service	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
2. Site Assessment Completed	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Evidence of a leak detected	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

XI. CERTIFICATION OF COMPLIANCE (COMPLETE FOR ALL NEW AND UPGRADED TANKS AT THIS LOCATION)

Tank Identification Number	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____	Tank No. _____
1. Installation					
A. Installer certified by tank and piping manufacturers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Installer certified or licensed by the implementing agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Installation inspected by a registered engineer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Installation inspected and approved by implementing agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Manufacturer's installation checklists have been completed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Another method allowed by State agency. Please specify.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Release Detection (Mark all that apply)	TANK	PIPING	TANK	PIPING	TANK	PIPING	TANK	PIPING	TANK	PIPING
A. Manual tank gauging	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
B. Tank tightness testing	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
C. Inventory controls	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
D. Automatic tank gauging	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
E. Vapor monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Groundwater monitoring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Interstitial monitoring double walled tank/piping	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
H. Interstitial monitoring/secondary containment	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
I. Automatic line leak detectors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Line tightness testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K. Other method allowed by Implementing Agency. Please specify.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Spill and Overfill Protection				
A. Overfill device installed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Spill device installed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OATH: I certify the information concerning installation that is provided in section XI is true to the best of my belief and knowledge.

Installer: _____
 Name _____ Position _____ Signature _____ Date _____
 Company _____

WV Certification Number: _____

47-36

Summary of the Proposed Rule

This amendment will require carriers delivering petroleum products to underground storage tanks to first determine if the owner or operator has proof of financial responsibility to remediate and pay third party costs in the event a petroleum release occurs.

Statement of Circumstances

A large number of petroleum underground storage tank owners or operators do not currently have financial responsibility to remediate and pay third party expenses in the event a petroleum release should occur in accordance with both federal and state rules which are now in effect. This situation has created unfair competition between petroleum retail outlets.

TRANSCRIPT OF PUBLIC HEARING

August 15, 1994

9:00 a.m.

AUTHORITY: W.Va. Code, §22-17-6

SCOPE: The amendment to the rule will effect all underground storage tank (UST) owners and operators and the carriers who deliver product to the UST facilities. The purpose of the amendment is to promote and enforce compliance with the federal and state regulations currently in effect which require UST owners and operators to provide financial responsibility for any releases from UST systems. The amendment will effect the UST owners and operators by cutting off their supply of product if they are not in compliance. It will effect the carriers by requiring them to determine if a facility is in compliance and subjecting them to penalties if they deliver to a site which is not in compliance.

JUSTIFICATION: The amendment will help to enforce compliance with the financial responsibility requirements and will promote a level playing field for the competitors in the petroleum marketing area.

CSR CITE: Title 47 Series 36 Section 5.1.

FEDERAL CITE: There is no comparable federal counterpart.

In attendance:

James Waycaster, W.Va. Division of Environmental Protection
Gil W. Sattler, W.Va. Division of Environmental Protection
Paula Duncan, W.Va. Division of Environmental Protection
Martha Barber, W.Va. Division of Environmental Protection

There were no written or oral comments received. No modifications have been made to the proposed rule.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1356 Hansford Street
Charleston, WV 25301-1401

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

August 17, 1994

MEMORANDUM TO: Judy Cooper, Director
Administrative Law
WV Secretary of State

FROM: Gil W. Sattler
Underground Storage Tank Section
Office of Waste Management
WV Division of Environmental Protection

SUBJECT: Written Comments Received on Proposed Rule
Title 47 Series 36

The attached written comments were received by the set deadline for comments but were inadvertently overlooked.

The comments would not have resulted in a modification to the regulations which were filed.

In response to the comments, the agency has found that the persons effected by this requirement are the persons who are supporting the modification.

GS:rm

Attachment

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Aug 18 10 18 AM '94

FILED

Appalachian Power Company
PO Box 2021
Roanoke, VA 24022-2121
703 985 2300

RECEIVED

AUG 10 1994

OFFICE OF WASTE MANAGEMENT
UST SECTION
CHARLESTON, WV 25301-1401



Mr. Gil Sattler
West Virginia Division of
Environmental Protection
1356 Hansford Street
Charleston, West Virginia 25301-1401

Re: Comments for Proposed Amendments to Title 47,
Series 36, Underground Storage Tank Rules

August 8, 1994

Dear Mr. Sattler:

Appalachian Power Company appreciates this opportunity to provide comments to the West Virginia Division of Environmental Protection (WVDEP) regarding the proposed amendments to Title 47, Series 36, Underground Storage Tank Rules.

The proposed amendment to §47-36-5 of the UST Rules would assign the responsibility of enforcing the WVDEP UST financial assurance regulation to petroleum carriers. While Appalachian Power can support a nominal fee for implementing a system to ensure compliance with these regulations, Appalachian Power does not support a process which imposes a requirement upon a non-regulatory person or entity to perform the regulatory function of the WVDEP. Therefore, Appalachian Power requests that the WVDEP delete the proposed amendment to §47-36-5.

If you have any questions regarding this letter, please contact Mr. E. Ray Wirt at (703) 985-2376. Thank you once again for the opportunity to provide you with these comments.

Sincerely,

A handwritten signature in cursive script that reads "Robert J. Robinson".

Robert J. Robinson
Environmental Affairs Director

RJR:ERW:d