

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 12, STORAGE TANK) DOCKET NO. 05-____-R
REGULATIONS)

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 12,
STORAGE TANK REGULATIONS

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation No. 12, Storage Tank Regulations, states:

1. Act 193 of 2005, Act 670 of 2005, Act 671 of 2005 and Act 1678 of 2005 (“the Acts”), made several changes to the regulatory procedures followed by the Commission and by the Department. The Department proposes this rulemaking primarily to make the provisions of Regulation No. 12 conform to the statutory language affected by the Acts.

2. The proposed regulatory amendments precipitated by the above-referenced Acts involve the following:

(a) Changes in Chapter Five, Reg. 12.505 and Chapter 6, Reg. 12.605, to comply with Act 193 of 2005, which adds letters of credit and cash bonds as forms of financial assurance for licensed installers and testers;

(b) Changes in Chapter Two, Reg. 12.203, to increase the annual registration fee for both underground and aboveground storage tanks from Fifty Dollars (\$50.00) to Seventy-Five Dollars (\$75.00) in compliance with Act 671 of 2005;

(c) Changes to Chapters Three and Four, Regs. 12.316 and 12.414, to comply with Act 1678 of 2005, which provides the Department a right of subrogation in cost recovery matters; and

(d) Changes to Regulation 12.309(E) to comply with Act 670 of 2005, which requires interim payments to consist of amounts not exceeding ninety percent (90%) of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

3. The Department proposes changes to Chapter One and Chapter Three, to eliminate the issuance of a Certificate of Eligibility, in order to accurately reflect the requirements of 40 C.F.R. § 280, Subpart H and Ark. Code Ann. § 8-7-801, *et. seq.*

4. In order to clarify Ark. Code Ann. § 8-7-813(e), the Department further proposes the addition of Reg. No. 12.201(C), which excludes from the registration requirements, aboveground storage tanks located on farms, the contents of which are used for agricultural purposes and not held for resale.

5. Dawn Guthrie or Lynda Perry from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit "B", and a copy of a financial impact statement for the proposed revision is attached as Exhibit "C", both of which are incorporated by reference. An analysis of the impact to small business required pursuant to Executive Order 05-04, is attached as Exhibit "D" and hereby incorporated by

reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "E" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "F" and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation No. 12.

Respectfully Submitted,

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY
8001 National Drive
P.O. Box 8913
Little Rock, Arkansas 72219-8913

By: _____
Dawn R. Guthrie