

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO	)	
REGULATION NO. 12, STORAGE TANK	)	DOCKET NO. 05-003-R
REGULATIONS	)	

STATEMENT OF BASIS AND PURPOSE  
FOR REGULATION NO. 12, STORAGE TANK REGULATIONS

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Pursuant to Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department").

On August 9, 2005, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 12, Storage Tank Regulations. The revisions to the Storage Tank Regulations are the result of state legislative or federal regulatory changes enacted or promulgated since 2004. The proposed amendments to Regulation No. 12 were precipitated by the following:

Arkansas General Assembly Act 193 of 2005, Act 670 of 2005,  
Act 671 of 2005, and Act 1678 of 2005.

Amendment of Regulation No. 12 is necessary in order to make the regulation conform with statutory language affected by the above-referenced Acts, and to incorporate changes to federal standards (40 C.F.R. Part 280) made by EPA. Pursuant to Regulation 8, Section 3.6.2(3), all technical standards are based upon those provided

by 40 C.F.R. 280, which is incorporated by reference into Regulation No.12.

The areas addressed by the amendments adopted by the Commission are:

1. Legislative and Federal Regulatory Changes.

(A) Amendment of the surety requirement to add letters of credit and cash bonds as allowable forms of financial assurance for licensed installers and testers to comply with Act 193 of 2005;

(B) Changes to Trust Fund provisions 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);

(C) Amendment to increase the annual storage tank registration fee from Fifty Dollars (\$50.00) to Seventy-Five Dollars (\$75.00) in compliance with Act 671 of 2005; and

(D) Changes to Trust Fund provisions to comply with Act 1678 of 2005, which provides the Department a right of subrogation in cost recovery matters;

2. Changes proposed by the Department.

(A) Changes to eliminate the issuance of a Certificate of Eligibility, to comport with the requirements of 40 C.F.R. § 280, Subpart H, and Ark. Code Ann. § 8-7-801, *et seq.*; and

(B) Changes to include in the regulation language the provisions of Ark. Code Ann. § 8-7-813(e), 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.

The Commission finds that the proposed revisions to Regulation No. 12 facilitate implementation of the substantive statutes administered by the Department, concerning storage tanks. These rules are in the public interest, and are necessary to insure

compliance with both state and federal law.

Prepared by:  
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