

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 17, ARKANSAS UNDERGROUND) DOCKET NO. 04-005-R
INJECTION CONTROL CODE)

STATEMENT OF BASIS AND PURPOSE
FOR REGULATION NO. 17, ARKANSAS UNDERGROUND
INJECTION CONTROL CODE

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Under 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").

The purpose of this rulemaking is to implement new federal regulations in 40 C.F.R. Parts 144, 145, and 146, addressing Class V Underground Injection Control Wells. These revisions were published by the United States Environmental Protection Agency on December 7, 1999, and become effective April 5, 2000. The purpose of the federal revision was to prevent the contamination of underground sources of drinking water by limiting injection of wastes through Class V wells. These revisions added requirements for two subcategories of Class V wells: large-capacity cesspools and motor vehicle waste disposal wells. The Department proposed this rulemaking primarily to incorporate the federal regulatory changes into Regulation 17. Because large-capacity cesspools are already banned by the Arkansas Department of Health, and ADEQ closes or permits motor vehicle waste disposal wells under existing statutory authority, there will be little practical effect to the program already being implemented by the Department.

On August 13, 2004, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 17, primarily to make the provisions of Regulation No. 17 conform to the federal regulatory revisions. The amendments to Regulation No. 17 include the following:

- (A) The addition of new or modified definitions to conform to federal regulations;
- (B) Removal of archaic or inapplicable language;
- (C) Addition of language indicating shared roles of ADEQ and AOGC regarding the underground injection control program;
- (D) Addition of requirements for two new subcategories of Class V wells: large-capacity cesspools and motor vehicle waste disposal wells; and
- (E) Changes throughout the regulation to conform to the Commission's Regulation Formatting and Drafting Guidelines.

At its regularly scheduled meeting held August 27, 2004, the Arkansas Pollution Control and Ecology Commission initiated rulemaking on Regulation No. 17. A public hearing was held October 19, 2004, which was public noticed the week of August 30, 2004. No public comments were received either at the hearing or during the public comment period which ended on November 2, 2004. Regulation 17 was reviewed by the legislature during November and December 2004. On January 28, 2005, after the regulatory changes received favorable review from the legislature, the Commission voted to adopt the proposed amendments to Regulation 17.

Regulation 17 and this rulemaking contain no technical standards which must be addressed pursuant to Regulation No. 8, Section 3.6.2(3).

The Commission finds that the proposed revisions to Regulation No. 17 facilitate implementation of the substantive statutes administered by the Department. These rules are in the public interest, and are necessary to insure compliance with both state and federal law.

Prepared by:

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY