

91st Arkansas General Assembly: Act 584/Aboveground Storage Tank Legislation Revisions



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Governor Hutchinson signed into law Act 584 which undertakes certain revisions to the regulation of petroleum aboveground storage tanks (“ASTs”).

Sponsors were Representative Davis and Senator J. Cooper.

Act 584 makes two principal revisions to AST legislative requirements. They include:

1. Eliminates the requirements that petroleum ASTs be registered with the Arkansas Department of Environmental Quality (“ADEQ”)
2. Requires petroleum ASTs to register with ADEQ and pay certain annual fees to be eligible to participate in the Arkansas Petroleum Storage Tank Trust Fund (“Trust Fund”)

The subchapter of the Arkansas Code that had previously required the registration and payment of certain fees by petroleum ASTs is found at Ark. Code Ann. 8-7-801 et seq. The provisions implementing the Trust Fund are found in Subchapter 9 at Ark. Code Ann. 8-7-901 et seq.

The need for the legislation was identified by an industrial member of the Arkansas Environmental Federation (“AEF”). This AEF member utilized as part of its wastewater system certain aboveground tanks (not petroleum storage). These ASTs used certain chemicals as part of the wastewater treatment process.

A chemical supplier had refused to deliver the wastewater chemicals into the facility’s AST because it was not registered with ADEQ (a requirement for petroleum ASTs). Delivery of petroleum to a petroleum unregistered AST has been prohibited by provisions of the previously referenced Subchapter 8.

The facility responded that the wastewater chemicals contained a tiny percentage of petroleum. The chemical supplier stated that regardless of the de minimis amount of petroleum in the chemicals, the Subchapter 8 delivery prohibition still applied.

A review by various parties of the law determined that this interpretation was probably correct. As a result, there was a concern that the breadth of the definitions of Subchapter 8 would in theory require that a number of ASTs (such as wastewater, chemical feedstock, etc.) that were never intended to be encompassed by Subchapter 8 must be registered.

As a result, the AEF decided to clarify this issue through legislative amendments. The organization proposed that the requirement to register ASTs simply be deleted. This is a provision that has never been required by analogous federal requirements.

Nevertheless, registration had been a useful mechanism because only registered ASTs can participate in the Arkansas Petroleum Storage Tank Trust Fund. Therefore, the AEF included language in Act 584 (formerly House Bill 1721) that required any petroleum AST that wished to be eligible to participate in the Trust Fund must register with ADEQ and pay certain fees. However, obviously, such participation would be voluntary. Nevertheless, it is expected that most, if not all, petroleum AST owners and operators will register their tanks and pay the required fees to ensure they are eligible to participate in the Trust Fund.

Regardless, the legislation now eliminates the concern of a number of facilities with wastewater aboveground tanks, chemical feedstock tanks, etc. that they had inadvertently been in violation of the registration requirements under Subchapter 8.

[A copy of Act 584 can be downloaded here.](#)