

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

LOCATION - SUBJECT _____

The City of Huntsville

Regulation No. 2.

Water Quality Standards

Third-Party Rulemaking Request

DOCKET NO. 96-009-R

MINUTE ORDER NO. 97- 33

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On September 12, 1996, The City of Huntsville, Arkansas, filed a Petition to Initiate Third Party Rulemaking to Amend Regulation No. 2 ("Petition").

The Commission's Regulations Committee met on September 27, 1996 to review The City of Huntsville's Petition. Having considered the Petition, the Regulations Committee recommended the Commission institute a rulemaking proceeding to consider adopting the proposed revisions to Regulation No. 2. The Regulations Committee also proposed adoption of the procedural schedule.

On February 27, 1997, it was determined that the Joint Interim Committee on Public Health and Welfare had not reviewed the petition and therefore, the action of the Commission on the Petition scheduled for February 28, 1997, was postponed. On June 5, 1997, the City of Huntsville filed an Amended Request for Third Party Rulemaking "Amended Request." On July 11, 1997 the Regulations Committee met to review the Amended Request for Rulemaking. Having considered the Amended Request, the Regulations Committee recommended that the Amended Request proceed and that the Commission adopt a procedural schedule. Therefore, the following schedule is adopted so consideration of this matter may proceed in an efficient and orderly manner.

1. The City of Huntsville, and the Arkansas Department of Pollution Control and Ecology ("Department"), shall file an original and two (2) copies of all materials required under this Minute Order. Each party shall serve the other with the materials filed. This requirement does not apply to transcripts.

2. Persons submitting written public comments shall submit their written comments to the Department. Within ten (10) business days following the adoption or denial of the proposed rule, the Department shall deliver the originals of all comments to the Commission Secretary.

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3. Unless filed with the Amended Request, The City of Huntsville shall file no later than August 1, 1997, a red-lined version of each section of Regulation No. 2 which will be amended by the proposed rule.

4. The City of Huntsville shall submit the following to the Department's public affairs office, no later than August 1, 1997.

- a. A proposed public notice to be used in mailing notice to interested persons, for publishing in newspapers, and for publishing in appropriate industry, trade, or professional publications as the Commission may select. The proposed public notice may, in the Department's discretion, be approved for use or the Department may choose to prepare its own public notice. The public notice shall conform to the requirements of Regulation No. 8, Part 3, Section 3.1.3. The public notice shall be published not later than August 11, 1997. By agreement, The City of Huntsville shall pay the costs of the newspaper publications and the costs of the appropriate industry, trade, or professional publications chosen by the Commission. The City of Huntsville shall file only the original proof of publication with the Commission. The Department shall be responsible for mailing the public notice to all persons who have requested advance notice of rulemaking proceedings and the cost of the mailing.
- b. Sixty-five (65) copies of an executive summary of the proposed rulemaking.
- c. Eight bound copies of the Petition and all supporting documentation.

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5. A public hearing or hearings shall be conducted during the week of September 15 or 25, 1997, in The City of Huntsville, Arkansas. The exact date, time, and location of the public hearing will be determined by the Department's Public Affairs Office.

6. The period for receiving all written comments by the public, The City of Huntsville and the Department shall conclude ten (10) business days after the date of the public hearing pursuant to Regulation No. 8, Part 3, Section 2.2.3, unless an extension of time is granted.

7. The City of Huntsville and the Department shall each file, not later than October 20, 1997, a Statement of Basis and Purpose and Responsiveness Summary as required by Regulation No. 8, Part 3, Section 3.6.2 (1), (2) and (3).

8. The City of Huntsville and the Department shall each file not later than November 21, 1997, a proposed Minute Order deciding the matter.

9. The Department shall seek review of the proposed rule from the Joint Interim Committee on Public Health and Welfare and/or from the Joint Interim Committee on Administrative Rules and Regulations.

10. The Regulations Committee will consider this matter at its December meeting. Members of the Regulations Committee may ask questions of any person that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

11. At the Commission's regularly scheduled December 5, 1997 meeting, the presentation of oral statements and legal arguments will be regulated as follows:

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- a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. At the discretion of the Chair, the one (1) hour oral statement period may be extended.
 - b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.
 - c. Legal counsel or other designated person representing The City of Huntsville and the Department shall be permitted ten (10) minutes in which to address the Commission.
 - d. At the conclusion of all statements, the Chair will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring statements who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

12. If the City of Huntsville desires a transcript of the public hearing, Regulation Committee meetings, and Commission meetings, or if required by the Commission, The City of Huntsville agrees to pay all costs for the preparation of a transcript of the public hearing, Regulation Committee meetings, and Commission meetings which concern this docket and occur after the adoption of

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this Minute Order. A court reporter will be employed by The City of Huntsville. The court reporter shall deliver the original transcript to the Commission Secretary.

13. The Commission authorizes the Chair of the Regulations Committee, in consultation with the Chair of the Commission, to revise the procedures and schedules set out above.

The Commission accepts the recommendation of the Regulations Committee and adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS

<u>WMB</u>	B. Bush
<u>AC</u>	A. Carter
<u>[Signature]</u>	D. Hanby
<u>[Signature]</u>	J. Hill
<u>[Signature]</u>	J. Mobley
<u>[Signature]</u>	J. Pascale

ABSENT

<u>JTS</u>	T. Schueck
<u>[Signature]</u>	J. Shannon
<u>[Signature]</u>	H. Watkins
<u>[Signature]</u>	H. Wilbourn
<u>[Signature]</u>	W. Wright
<u>[Signature]</u>	R. Young

Julia P. Mobley
Chair

SUBMITTED BY: Huntsville PASSED: 07/25/97