

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 8, ADMINISTRATIVE) DOCKET NO. 08-012-R
PROCEDURES)**

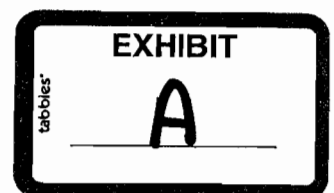
STATEMENT OF BASIS AND PURPOSE FOR PROPOSED AMENDMENTS TO
REGULATION NO. 8, ADMINISTRATIVE PROCEDURES

Pursuant to Ark. Code Ann. § 8-1-203(b)(1), the Arkansas Pollution Control and Ecology Commission (“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 July 11, 2008, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 8, Administrative Procedures. The Commission granted the Petition to Initiate Rulemaking on July 25, 2008.

A public hearing was held on September 9, 2008. Several written and oral comments were received during the public comment period and have been addressed in the Responsive Summary filed with the Commission and included with the Petition for Final Adoption.

The following paragraphs state the basis and purpose for the proposed amendments to Regulation No. 8.

1. The proposed changes to Regulation No. 8 include formatting and numbering changes to provide consistency and ease of use; for example, sections regarding filing deadlines have been rearranged into one section instead of spread through out the regulation.
2. The definitions contained in Regulation 8.103, Definitions, were clarified and the following definitions were added:
 - i. Administrative Penalty;
 - ii. Applicant;



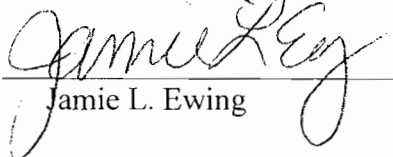
- iii. Administrative Permit Amendment;
- iv. Commission Secretary;
- v. Declaratory Order;
- vi. Implementing Agreement;
- vii. Major Modification;
- viii. Notice of Bond Forfeiture;
- ix. Permit; and
- x. Subpoena

3. A new provision regarding disclosure statements has been added in Regulation 8.204, Non-compliance Determination, to conform with Ark. Code Ann. § 8-1-106, as well as Acts 1005 and 1019 of 2007.
4. Regulations 8.206, Request for Public Hearing on Application for Permit and 8.606, Filing of Pleadings or Other Documents, have been amended to reflect procedures for filing pleadings and written comments by facsimile or electronic mail.
5. Regulation 8.208, Public Comment on Draft Permitting Decision, has been added to allow the extension of a comment period by the Director, if exceptional circumstances warrant.
6. Regulation 8.216, Interim Authority and Temporary Variances, has been added to comply with Ark. Code Ann. § 8-4-230 and to provide a procedure for requests and appeals of interim authorities and temporary variances.
7. Regulation 8.405, Public Notice of Notices of Violations and Consent Administrative Orders, provides for a second public notice date on the 25th day of each month to address comment periods for no penalty Consent Administrative Orders (CAOs), which are effective upon the Director's signature. A thirty day public comment period may expire before a no penalty CAO is noticed, in the absence of a second public notice.

8. Regulation 8.619, Oral Argument Before the Commission, has been amended to clarify the requirements for requesting oral argument before the Commission.
9. Regulation 8.703, Filing of Commission Response and Record, has been added to address the filing of the Commission response and record upon appeal.
10. Regulation 8.808, Contents of Rulemaking Docket, has been amended to promote consistency between the regulation, statute and the Commission's Regulation Formatting and Drafting Guidelines.
11. Regulation 8.812, Economic Impact and Environmental Benefit Analysis Requirements, has been added as a result of the recommendations developed by the Commission's subcommittee will be required during rulemaking, with limited exceptions. An appendix including forms for the analysis has also been added.
12. Regulations 8.905, Request to Appeal Before the Commission, and 8.906, Public Comments, have been amended to address the procedures for requesting to appear before the Commission and the procedures for submitting public comments at a Commission meeting, respectively. Currently, these procedures are in the Guide to Commission Operations.

The Department respectfully requests that the Commission find that the proposed revisions to Regulation No. 8 are in the public interest and are necessary to ensure compliance with both state and federal law.

Respectfully submitted,
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: 
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