

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

101 EAST CAPITOL

SUITE 205

LITTLE ROCK, ARKANSAS 72201

PHONE: (501) 682-7890

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FEB 17 2009

BUREAU OF
LEGISLATIVE RESEARCH

February 18, 2009

Ms. Donna Davis
Administrative Rules and Regulations Committee
Room 433, State Capitol Building
Little Rock, Arkansas 72201

Re: Regulation No. 8, Administrative Procedures, Docket No.
08-012-R - **SUBSTITUTED FILING**

Dear Ms. Davis:

The Arkansas Pollution Control and Ecology Commission adopted revisions to Regulation No. 8 on January 23, 2009, and those amendments were filed with your office on February 2, 2009. After the regulation was filed, the Arkansas Department of Environmental Quality ("ADEQ") notified me that it had found two errors in the filing. The purpose of this letter is to correct those inadvertent errors.

The first error appears in Reg.8.204(C)(7)(a), which lists eleven exemptions from the requirement to submit a disclosure statement. A twelfth exemption, "Asbestos Certification Renewals, as defined in Regulation 21," was inadvertently left out of the list. See attached page 2-3. This exemption was identified by ADEQ in its Responsive Summary at Comment 17 and Response 17 stated that the comment was accepted and that ADEQ would revise the regulation. The Responsive Summary was provided to your office as part of the package given to the legislative committees for their review. A copy of the pertinent pages in the Responsive Summary is attached and identified as Exhibit B. The Responsive Summary also was included in the package of materials submitted to the commission when it adopted the revisions to Regulation No. 8.

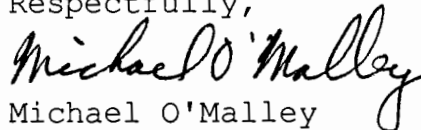
The second error appears on Attachment 1. The following line, at the top of page A-1, states: Answer to best of the proponent's ability, as required by APC&EC Regulation 8, Chapter 3.5. The previous version of Regulation No. 8 included Chapter 3.5, but the amended Regulation No. 8 utilizes a different

numbering system. The correct line should read: Answer to best of the proponent's ability, as required by APC&EC Regulation 8.812. See attached page A-1.

In order to correct these two errors, I am enclosing two corrected hard copies of Regulation No. 8 and two single corrected and substituted pages 2-3 and pages A-1.

I greatly appreciate your assistance in helping us to make these corrections and if you have any questions, please do not hesitate to contact me.

Respectfully,



Michael O'Malley
Administrative Hearing Officer

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LEGISLATIVE RESEARCH

ATTACHMENT 1

ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS

Answer to best of the proponent's ability, as required by APC&EC Regulation 8.812

**STEP 1: DETERMINATION OF ANALYSIS REQUIREMENT
(to be included in petition to initiate rulemaking)**

The Arkansas Pollution Control and Ecology Commission's (Commission) Regulation No. 8 requires the Commission to duly consider the economic impact and the environmental benefit of any rule or regulation prior to promulgation. By Act 143 of 2007, the Governor has directed that impacts to small businesses be analyzed prior to adoption of regulations. Furthermore, the Arkansas Legislative Council requires the submission of a Financial Impact Statement and Questionnaire for Filing Proposed Rules and Regulations with the Arkansas Legislative Council and Joint Interim Committee with proposed regulation changes. The following procedures are outlined to provide clarity in the requirements of these various impact statements.

1. Prepare and submit the Financial Impact Statement and Questionnaire for Filing Proposed Rules and Regulations with the Arkansas Legislative Council and Joint Interim Committee required by the Arkansas Legislative Council for all proposed rulemakings.
2. The following analysis is necessary for the Commission to consider the economic impact and environmental benefit of any proposed rule or regulation. This Economic Impact/ Environmental Benefit Analysis ("Analysis") must be prepared by the proponent of the rulemaking initiated before the Commission based upon information reasonably available. If a rulemaking proposes to alter or amend an existing Commission rule, the Analysis shall be restricted to the economic impact and environmental benefits of the proposed changes. This Analysis must be included in the Petition to Initiate Rulemaking before the Commission for all regulatory changes, unless the proposed rule is exempt for one or more of the following reasons:
 - The proposed rule incorporates or adopts the language of a federal statute or regulation without substantive change;*
 - The proposed rule incorporates or adopts the language of an Arkansas state statute or regulation without substantive change;
 - The proposed rule is limited to matters arising under Regulation No. 8 regarding the rules of practice or procedure before the Commission;
 - The proposed rule makes only *de minimis* changes to existing rules or regulations, such as the correction of typographical errors or the renumbering of paragraphs or sections;
or
 - The proposed rule is an emergency rule that is temporary in duration.

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BUREAU OF
REGULATIVE RESEARCH

recent annual and quarterly reports required by the Securities and Exchange Commission which provide information regarding legal proceedings in which the applicant has been involved. The applicant shall submit such other information as the Director may require that relates to the competency, reliability, or responsibility of the applicant and affiliated persons.

(5) For a person or entity seeking a renewal of an expiring permit, license, certification, or operational authorization the disclosure requirements of this section shall be met if the entity:

- (a) Discloses any change in previously submitted information; or
- (b) Verifies that the previously submitted information remains accurate; and
- (c) Submits the information on forms developed by the Department.

(6) The Commission may adopt regulations exempting certain permits, licenses, certifications, or operational authorizations from the disclosure requirements and establish reasonable and appropriate disclosure information, if any, required for specific types of permits, licenses, certifications, or operational authorizations based on:

- (a) The scope of a permit, license, certification, or operational authorization; and
- (b) The person or entity that would receive a permit, license, certification, or operational authorization.

(7)(a) Pursuant to the authority of Reg. 8.204(C)(6), the following permits, licenses, certifications, and operational authorizations are exempt from the requirement to submit a disclosure statement:

- (i) Hazardous Waste Treatment, Storage, and Disposal Permit Modifications (Class 1, 2, and 3), as defined in Regulation 23;
- (ii) Phase 1 Consultants, as defined in Regulation 32;
- (iii) Certifications for Operators of Commercial Hazardous Waste Facilities, as defined in Section 264.16(f) of Regulation 23;
- (iv) RST License Renewals, as defined in Regulation 12;
- (v) Laboratory Certifications, as defined in A.C.A. § 8-2-201 et seq.;
- (vi) Individual Homeowners seeking coverage under General Permit ARG5500000;
- (vii) Wastewater Operator Licenses, as defined in Regulation 3
- (viii) Water Permit Modifications for permits issued under the authority of the Arkansas Water and Air Pollution Control Act, A.C.A. § 8-4-101 et seq.;
- (ix) Solid Waste Permit Modifications for permits issued under Regulation 22;
- (x) Solid Waste Landfill Operator License Renewals, as defined in Regulation 27;
- (xi) Air Permit Modifications for permits issued under Regulations 18, 19, and 26; and
- (xii) Asbestos Certification Renewals, as defined in Regulation 21.

(b) The exemption from the requirement to submit a disclosure statement shall not be

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FILED
10 FEB 19 2009
STATE OF ARKANSAS
BY _____

February 18, 2009

Mr. Jon Davidson
The Arkansas Register
Secretary of State's Office
State Capitol, Room 026
Little Rock, Arkansas 72201

Re: Regulation No. 8, Administrative Procedures, Docket No.
08-012-R - **SUBSTITUTED FILING**

Dear Mr. Davidson:

The Arkansas Pollution Control and Ecology Commission adopted revisions to Regulation No. 8 on January 23, 2009, and those amendments were filed with your office on February 2, 2009. After the regulation was filed, the Arkansas Department of Environmental Quality ("ADEQ") notified me that it had found two errors in the filing. The purpose of this letter is to correct those inadvertent errors.

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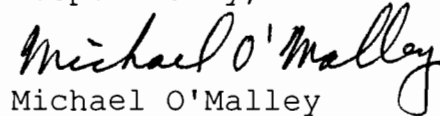
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ability, as required by APC&EC Regulation 8.812. See attached page A-1.

I am providing you with a disc containing the corrected pages as well as the entire regulation. I am also enclosing two hard copies of each corrected and substituted page 2-3 and page A-1.

I greatly appreciate your assistance in helping us to make these corrections and if you have any questions, please do not hesitate to contact me.

Respectfully,



Michael O'Malley
Administrative Hearing Officer

ATTACHMENT 1

ECONOMIC IMPACT/ENVIRONMENTAL BENEFIT ANALYSIS

Answer to best of the proponent's ability, as required by APC&EC Regulation 8.812

STEP 1: DETERMINATION OF ANALYSIS REQUIREMENT (to be included in petition to initiate rulemaking)

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February 18, 2009

Ms. Mary Brewer
Government Documents
Arkansas State Library
1 Capitol Mall
Little Rock, Arkansas 72201

Re: Regulation No. 8, Administrative Procedures, Docket No.
08-012-R - **SUBSTITUTED FILING**

Dear Ms. Brewer:

The Arkansas Pollution Control and Ecology Commission adopted revisions to Regulation No. 8 on January 23, 2009, and those amendments were filed with your office on February 2, 2009. After the regulation was filed, the Arkansas Department of Environmental Quality ("ADEQ") notified me that it had found two errors in the filing. The purpose of this letter is to correct those inadvertent errors.

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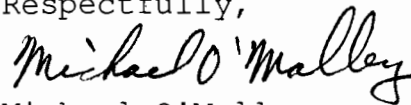
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ability, as required by APC&EC Regulation 8.812. See attached page A-1.

I am enclosing fifteen (15) copies of each corrected and substituted page 2-3 and page A-1.

I greatly appreciate your assistance in helping us to make these corrections and if you have any questions, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink that reads "Michael O'Malley". The signature is written in a cursive style with a large, prominent "M" and "O".

Michael O'Malley
Administrative Hearing Officer

ATTACHMENT 1

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