

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to
Initiate Rulemaking
Regulation No. 15**

Docket No. 12- -R

MINUTE ORDER NO. 12-

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On February 10, 2012, the Arkansas Department of Environmental Quality, (“ADEQ”) filed a Petition to Initiate Rulemaking to Promulgate Regulation No. 15, Arkansas Open-Cut Mining and Reclamation Code. Pursuant to Ark. Code Ann. § 8-4-202(c), the Arkansas Pollution Control and Ecology Commission (“Commission”) has sixty (60) days in which to either institute rulemaking proceedings or to give written notice denying the petition for rulemaking. The Petition has been designated as Docket No. 12-____-R.

The Commission’s Regulations Committee met on February 24, 2012, to review the Petition and it recommends that the Commission institute a rulemaking proceeding to consider adopting the proposed Regulation No. 15. The Regulations Committee also recommends adoption of the following procedures and schedule.

1. The Arkansas Department of Environmental Quality (“ADEQ”) shall file an original and one (1) copy and an electronic copy of all materials required under this Minute Order. This requirement does not apply to transcripts.
2. Persons submitting written public comments shall submit them to ADEQ and ADEQ will deliver the originals of all comments to the Commission Secretary at the conclusion of the proceeding.
3. A public hearing shall be conducted on the 5th of April 2012 at 2:00 p.m. in the Commission Room, ADEQ Headquarters, 5301 Northshore Drive, North Little Rock or as otherwise determined by availability.
4. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing, unless an extension of time is granted.
5. ADEQ shall file, not later than 14 days before the Commission meets to consider adoption of the proposed regulation, a Statement of Basis and Purpose and Responsive Summary as required by Reg.8.814 and Reg.8.815. In addition, ADEQ shall file a proposed Minute Order deciding this matter.
6. ADEQ shall seek review of the proposed rule from the Joint Interim Committee on Agriculture, Forestry and Economic Development and from the

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Joint Interim Committee on Administrative Rules and Regulations.

7. The Regulations Committee and the Commission may consider this matter at their June 2012 meeting. In the event the appropriate legislative committees do not complete review of the proposed rule by the above date, the Regulations Committee and the Commission will consider the proposed amendments to the regulation after review by the appropriate legislative committees. Members of the Regulations Committee may ask questions of any persons that made oral or written comments and it will make a recommendation to the Commission.

8. At the Commission meeting, the presentation of oral statements and legal arguments will be regulated as follows:

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. ADEQ 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.

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9. Pursuant to Act 143 of 2007, the Commission finds the proposed regulation does not affect small businesses.

The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding in this docket. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS

_____ J. Bates	_____ J. Shannon
_____ L. Bengal	_____ L. Sickel
_____ D. Hendrix	_____ J. Simpson
_____ L. Hitchcock	_____ W. Thompson
_____ S. Jorgenson	_____ B. White
_____ D. Samples	_____ R. Young

_____ **SUBMITTED BY: James F. Stephens PASSED: Feb. 24 , 2012**
J. Chamberlin - Chairman