

ARKANSAS AIR QUALITY RULE STREAMLINING AND CLEAN-UP INITIATIVE PHASE I OVERVIEW

I. Background

The Arkansas Department of Energy and Environment Division of Environmental Quality (“the Division”) has been engaged in an effort to simplify and streamline the air quality rules governing air quality programs. In 2018, the Division Office of Air Quality (OAQ) sought comment on a strawman draft of a consolidated rule. In response to stakeholder feedback, the OAQ established the Regulatory Efficiency and Streamlining Effort (EASE) Collaborative, which is open to members of the public, to explore options to further clarify and otherwise streamline existing air quality rules. A subset of EASE members volunteered to join workgroups that meet every few weeks to discuss issues related to permitting and regulation.

While the EASE Regulatory workgroup has not yet completed its examination of all identified opportunities to streamline and improve Arkansas air quality rules, State legislation and upcoming federal requirements necessitate rulemaking. Therefore, OAQ proposes to split the streamlining effort into phases. This overview document explains why, what, when, and how for Phase I. OAQ will post Phase I materials to the following webpage to provide access to the public and stakeholders: <http://www.adeq.state.ar.us/air/planning/streamlining/>. As time permits, OAQ plans to continue discussions of additional topics for future phases of the rulemaking streamlining process, including without limitation changes to regulatory structure, stage I vapor recovery, public notice requirements, and Title I and Title V permitting provisions for minor new source review.

II. Why?

- Bills passed in the 2019 Legislative Session necessitate changes to all Arkansas Pollution Control and Ecology Commission (APC&EC) regulations.
 - [Act 910 of 2019](#) established new cabinet-level departments and transferred state entities into the cabinet-level departments.
 - The “Arkansas Department of Environmental Quality” no longer exists as a legal entity.
 - We are now the Division of Environmental Quality within the Department of Energy and Environment.
 - The regulations need to be updated to reflect this.
 - [Act 315 of 2019](#) requires government entities to ensure the use of the term “rule” upon promulgation of any rule after the effective date of the act.
 - Act 315 does not require government entities to re-promulgate regulations to comply solely with the act.

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- APC&EC has indicated that this change should be made to all rules when they are reopened for other purposes going forward.
- The need to revise APC&EC regulations creates an opportunity to perform other clean-up and streamlining changes based on EASE Regulatory Workgroup recommendations to date.

III. What?

General Streamlining/Clean-Up Principles

- Correct grammar and punctuation
- Correct personification of inanimate objects (“The owner or operator of the facility” shall comply instead of “The facility shall comply”)
- Remove undefined terms
- Update style and usage to be more consistent with Chapter 4 of the [2010 Bureau of Legislative Research Legislative Drafting Manual](#) (pgs 32–64)
 - Avoid long sentences
 - Keep related topics together
 - Defined terms
 - Define a word if there is more than one meaning or the intended meaning is not apparent from the context or a more specific meaning is intended than the generally recognized meaning
 - Do not use shorthand terms, acronyms, or synonyms
 - Do not define terms that are not used in the rule
 - Active verb preferred to indicate to whom the requirement applies
 - Singular preferred unless plural is exclusively intended
 - Number formatting

Other Changes

- Change instances of “regulation” to “rule” when referring to rules in general or rules promulgated by Arkansas government entities
- Change “Department” to “Division”
- Correct copy and paste errors from previous rulemakings
- Simplify the rule
 - Remove superfluous language (Recommendations belong in guidance documents whereas requirements and authority belong in rules)
 - Group provisions applicable to each subject entity together
 - Use subdivisions and shorter sentences to improve readability
- Workgroup Recommendations (See September 10, 2019 Regulatory Workgroup Meeting Notes)

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IV. When and How?

Tentative Timeframe	Action	Product
January – September 2019	Regulatory Workgroup meet to discuss opportunities for streamlining and updating Arkansas air quality rules	Recommendations for changes to Regulations 18, 19, 26, and 31
September 2019– January 2020	DEQ incorporates recommendations into strawman drafts	Strawman drafts of Rule 18, 19, and 26 (clean copy and annotated mark-up copy) Webpage updates
January 2020 – April 2020	Workgroup meetings to discuss each strawman draft Collaborative meeting open to the public to discuss workgroup feedback on strawman draft	Suggestions for changes to make to strawman drafts prior to filing for initiation with the Commission
Spring/Summer 2020	DEQ works on incorporating stakeholder, EPA, and public feedback on strawman drafts into proposed rules	Petition for Initiation with the Commission including required exhibits State implementation plan, Title V plan, and 111d plan proposals
Fall 2020/Winter 2021	DEQ files for initiation with Commission DEQ proposes revisions to State implementation plan, Title V plan, and 111d plan based on proposed regulatory changes	
Winter 2021	Opportunity for formal comments on proposed rulemakings and plans DEQ considers comments upon conclusion of the public comment period(s)	Comments on the record Written responses to comments Changes to proposed rules and plans in response to comments
Spring/Summer 2021	Legislative Review of rules Adoption of final rules	Final rules Final plans for submission to EPA

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GENERIC RULEMAKING PROCESS STEPS	
Prepare Initiation Packet	2–4 weeks
Final draft initiation packets routed and approved by DO	2–4 weeks
Governor's Approval	2–4 weeks
Initiation with APC&EC	2 weeks
Comment Period: Public Notice/Hearing	30 days to public hearing + 10 days
Response to Comments, Statement of Basis	1–3 months
Routing of Packet for Legislative Committees	2–4 weeks
Legislative Committees – Public Health, Welfare, and Labor and Administrative Rules	2–3 months
Routing Adoption Packet	2–4 weeks
APC&EC Adoption	2 weeks