

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 19
Regulations of the Arkansas
Plan of Implementation for
Air Pollution Control
Third-Party Rulemaking**

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On October 2, 2009 Entergy Arkansas, Inc., the Arkansas Electric Cooperative Corporation, the Conway Corporation, City Water and Light Plant of the City of Jonesboro and the West Memphis Utility Commission (“Petitioners”) filed a Petition to Initiate Third Party Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. 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 Commission’s Regulations Committee met on October 24, 2008 to review the petition. Having considered the petition, the Regulations Committee recommends the Commission institute a rulemaking proceeding to consider adopting the proposed revision to Regulation No. 19. The Regulations Committee also proposes adoption of the following procedural schedule so consideration of this matter may proceed in an efficient and orderly manner.

1. Petitioners and the Arkansas Department of Environmental Quality (“ADEQ”) shall file an original, one (1) copy and a computer disk in Word format of all materials required under this Minute Order. This requirement does not apply to transcripts.
2. Persons submitted written public comments shall submit their written comments to the ADEQ. The ADEQ shall deliver the originals of all comments to the Commission Secretary at the conclusion of the proceeding.
3. Petitioners have filed with the Petition a black-lined version of the section of Regulation No. 19 which will be amended by the proposal rule.
4. Petitioners will submitted to the ADEQ’s Public Outreach and Assistance Division the following:

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- a. A proposed public notice to be used in mailing notice to interested persons, for publishing in appropriate industry, trade, or professional publications as the Commission may select. The proposed public notice may, in the ADEQ's discretion, be approved for use or the ADEQ 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 no later than 45 days prior to public hearing. By agreement, Petitioners shall pay the costs of the newspaper publications and the costs of the appropriate industry, trade, or professional publications chosen by the Commission. Petitioners shall file only the original proof of publication with the Commission. The ADEQ 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. Fifty (50) copies of the executive summary of the proposed rulemaking.
 - c. Bound copies of the petition and all supporting documentation, the number to be determined by the Public Outreach and Assistance Division.
5. A public hearing or hearings shall be conducted the week of December 8, 2008 in the Commission Room at the Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
6. The period for receiving all written comments by the public, Petitioners and the ADEQ 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. Petitioners and the ADEQ shall each file, not later than fourteen (14) days before the Commission meets to consider adoption of the proposed regulation, a Statement of Basis and Purpose and Responsiveness Summary as required by Regulation No. 8, Part 3, Section 3.62(1), (2) and (3).

8. Petitioners and the ADEQ shall each file a proposed Minute Order deciding the matter.

9. The ADEQ 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 June, 2009 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. The Regulations Committee will make a recommendation to the Commission.

11. 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. Legal counsel or other designated persons representing Petitioners and the 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.

12. If Petitioners desire a transcript of the public hearing Regulations Committee meeting, and Commission meetings, or if required by the Commission, Petitioners agree to pay all costs for the preparation of transcript of the public hearing, Regulations Committee meetings and Commission meetings which concern this docket and occur after the adoption of this Minute Order. If transcript of the rulemaking proceedings is required, the court reporter will be employed by Petitioners, and 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 initiates the rulemaking proceeding in this docket. The Commission adopts, without modification, the procedural schedule set forth above.

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COMMISSIONERS:

_____ L. Bengal
_____ S. Henderson
_____ D. Hendrix
_____ C. McGrew
_____ D. Samples
_____ T. Schueck
_____ J. Shannon

_____ L. Sickel
_____ J. Simpson
_____ W. Thompson
_____ E. Valdez
_____ B. White
_____ R. Young

Chair: _____ Submitted By: William A. Eckert Date Passed: October 24, 2008
W. Thompson