

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION

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

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NO. 8, ADMINISTRATIVE PROCEDURES

The Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "the Department"), for its Petition to Initiate Rulemaking to Amend Regulation No. 8, Administrative Procedures, states:

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.

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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.

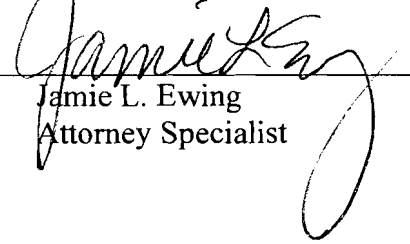
13. Ellen Carpenter, Jamie Ewing or Dawn Guthrie from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit "B", and a copy of the Financial Impact Statement for the proposed revision is attached as Exhibit "C", both of which are incorporated by reference. A copy of the Economic Impact Statement filed with the Arkansas Economic Development Commission "AEDC" pursuant to Act 143 of 2007 is attached hereto at Exhibit "D" and is hereby incorporated by reference. At the time of filing this petition, the AEDC has not responded to the submittal of this statement. Any correspondence received from the AEDC will be forward to the

Commission. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "E" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "F" and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation No. 8.

Respectfully Submitted,
ARKANSAS DEPARTMENT OF
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By: _____


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