

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Petition to Initiate
Rulemaking-Regulation No. 9**

DOCKET NO. 11-007-R

MINUTE ORDER NO. 11-33

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On November 18, 2011, the Arkansas Department of Environmental Quality, ("Department" or "ADEQ") filed a Petition to Initiate Rulemaking to Amend Regulation No. 9, Fee Regulation. 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. 11-007-R.

The Commission's Regulations Committee met on December 2, 2011, to review the Petition. Having considered the Petition, the Regulations Committee recommends that the Commission institute a rulemaking proceeding to consider adopting the proposed revisions to Regulation No. 9.

1. The Department shall file an original and two (2) copies and a computer disk in Word of all materials required under this Minute Order.

2. Persons submitting written public comments shall submit their written comments to the Department. Within ten (10) business days following the adoption or denial of the proposed rule, the Department shall deliver the originals of all comments to the Commission Secretary.

3. A public hearing shall be conducted on January 17, 2012, beginning at 2:00 p.m. in the ADEQ Commission Room, 5301 Northshore Drive, North Little Rock, AR 72118-5317.

4. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing, pursuant to Reg. 8.806 of Regulation No. 8, unless an extension of time is granted.

5. The Department shall file, not later than 14 days before the Commission meets to consider adoption of the proposed rule, a Statement of Basis and Purpose as required by Reg. 8.808 and 8.815 of Regulation No. 8.

6. The Department shall file, not later than 14 days before the Commission meets to consider adoption of the proposed rule, a proposed Minute Order deciding this matter.

7. The Department 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.

8. The Regulations Committee may consider this matter at its May 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 the Department and any persons that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

9. At the regularly scheduled May/24/2012 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. The Chair, in his discretion, may extend the one (1) hour public comment period.
- 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. Department legal counsel or other designated Department employees will be permitted ten (10) minutes in which to address the Commission.
- d. At the conclusion of all comments, 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

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or ask follow-up questions of any person questioned by a Commissioner.

- e. 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.

10. The Commission finds the proposed regulation does not affect small businesses and therefore concludes that Act 142 of 2007, as amended by Act 809 of 2009 is not applicable.

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:

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| <u>JB</u> | J. Bates |
| <u>LB</u> | L. Bengal |
| <u>DH</u> | D. Hendrix |
| <u>SJ</u> | S. Jorgensen (Vice-chair) |
| <u>DS</u> | D. Samples |
| <u>JSh</u> | J. Shannon |

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|-----------|--------------|
| <u>LS</u> | L. Sickel |
| <u>JS</u> | J. Simpson |
| <u>WT</u> | W. Thompson |
| <u>BW</u> | B. White |
| <u>RY</u> | R. Young |
| <u>LH</u> | L. Hitchcock |

JSC
J. Chamberlin, Chair

SUBMITTED BY: Mike Bates

PASSED: 12/02/11