

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION****SUBJECT:
Petition to
Initiate Rulemaking
Regulation No. 11
DOCKET NO. 05-007-R
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On September 9, 2005, The Arkansas Department of Environmental Quality ("Department", filed a Petition to Amend Regulation No. 11, Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; and Recycling Grants Program. The Petition has been designated as Docket No. 05-007-R.

The Commission's Regulations Committee met on September 23, 2005, to review the Petition. Having considered the Petition, the Regulations Committee recommends the Commission institute a rule-making proceeding to consider adopting the proposed revisions to Regulation No. 11.

1. The Department shall file an original and two (2) copies 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 the week of November 7, 2005, at ADEQ, Building D Training Room, Little Rock, Arkansas.

4. Public notice of the proposed rule-making will be published on or about September 26, 2005. The period for receiving all written comments shall conclude ten (10) business days after the date of the public hearing pursuant to Regulation No. 8, Part 3, Section 3.2.3, unless an extension of time is granted.

5. The Department shall file, not later than November 30, 2005, a Statement of Basis and Purpose as required by Regulation No. 8, Section 3.6.2(1), (2) and (3).

6. The Department shall file, not later than November 30, 2005, a proposed Minute Order deciding this matter.

7. The Department shall seek review of the proposed

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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 will consider this matter at its December 2005 meeting. Members of the Regulations Committee may ask questions of the Department and any person that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

9. At its regularly scheduled December 2005 meeting, the presentation of oral statements and legal arguments shall be regulated as follows:

- a. 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 employee will be permitted ten (10) minutes in which to address the Commission.
- d. At the conclusion of all comments, the Chairman will call on each Commissioner for the purpose of asking the attorneys or persons who are present sponsoring comments, any questions they may have. Attorneys will not be permitted to respond 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

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the matter, allow discussion, and call for a vote of the Commission members.

10. The Commission authorizes the Chair and the Regulations Committee, in consultation with the Chair of the Commission, to revise the procedures and schedules set out above.

11. Executive Order 05-04 requires that the Commission determine whether a proposed rule affects small businesses. Based on the information contained in the Petition, the Commission finds the proposed Amendment to Regulation No. 11 substantially codifies existing State law and regulations. Therefore, the Commission concludes that the procedures set forth in Executive Order 05-04 are not applicable to the proposed amendment to Regulation No. 11.

The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding in Docket No. 05-007-R, effective September 23, 2005. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS

_____	B. Ackerman	_____	J. Shannon
_____	L. Bengal	_____	L. Sickel
_____	S. Henderson	_____	E. Valdez
_____	C. McGrew	_____	B. White
_____	R. Quillin	_____	R. Young
_____	D. Samples	_____	W. Thompson
_____	T. Schueck		

_____ **SUBMITTED BY: Anne Weinstein PASSED: Sept. 23, 2005**
Ephrain Valdez , Chairman