

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

SUBJECT: Petition to
Initiate Rulemaking
Regulation No. 25
Lead-based Paint-hazard

Docket No. 05-____-R

MINUTE ORDER NO. 05-____

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On October 17, 2005, The Arkansas Department of Environmental Quality (“Department”) filed a Petition to Amend Regulation No. 25, Lead-based Paint-hazard. The Petition has been designated as Docket No. 05-____-R.

The Commission’s Regulations Committee met on October 28, 2005, to review the Petition. Having considered the Petition, the Regulations Committee recommends the Commission institute a rulemaking proceeding to consider adopting the proposed revisions to Regulation No. 25.

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 December 6, 2005 at 2:00 p.m. in the Arkansas Department of Environmental Quality’s Building G Commission Room, located within the Arkansas State Police Headquarters Building, No. 1 State Police Plaza, in Little Rock, Arkansas.
4. Public Notice of the proposed rulemaking will be published beginning on or about November 3, 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 14 days before the Commission meets to consider adoption of the proposed rule, a Statement of Basis and Purpose as required by Regulation No. 8, Part 3, Section 3.6.2(1), (2) and (3).
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 will consider this matter at its February 2006 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 February 2006 meeting, the presentation of oral statements and legal arguments shall 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 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 sponsoring comments 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.

e. After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussions, and call for a vote of the Commission members.

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10. 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.

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 amendments to Regulation No. 25 substantially codifies existing State and Federal law and regulations. Therefore, the Commission concludes that the procedures set forth in Executive 05-04 are not applicable to the proposed amendments to Regulation No. 25.

12. The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding Docket No. 05-____-R effective October 28, 2005. The Commission adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS:

_____ B. Ackerman
_____ L. Bengal
_____ S. Henderson
_____ C. McGrew
_____ R. Quillin
_____ D. Samples
_____ T. Schueck

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

_____ submitted by: Deborah Pitts PASSED: 10/28/05
Chair