

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 26, REGULATIONS OF THE) DOCKET NO. 08-____-R
ARKANSAS AIR PERMIT PROGRAM)

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NUMBER 26, REGULATIONS OF THE ARKANSAS AIR PERMIT PROGRAM

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation Number 26, Regulations of the Arkansas Air Permit Program, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation Number 26, Regulations of the Arkansas Operating Air Permit Program. Regulation 26 is applicable to any stationary source which has the potential to emit any federally regulated air pollutant equal to or in excess of the threshold for a major source and is federally enforceable. By separate petition, the Department proposes changes to Regulation Number 18 and Regulation Number 19 contingent upon the Commission promulgating Regulation Number 26. The Department requests that the Commission consider the initiation of rulemaking associated with the promulgation of Regulation Number 26 to be contingent upon the Commission’s decision to initiate rulemaking to amend Regulation Number 18 and Regulation Number 19. The Department makes this request to avoid the potential of either of two possible results:

- (a) The regulatory flexibility provisions we are proposing to add will not be effective unless all three regulations are initiated simultaneously; and
- (b) Regulations containing different permitting thresholds could cause confusion and unequal treatment of sources.

2. The proposed regulatory amendments involve the following:

- (a) Adding definitions of EPA and a clarified the definition of Title I modification by explaining what is not a Title I modification;
- (b) Moving the effective date language from the front of the regulation to its own, new chapter, Chapter 13;
- (c) Clarifying in Reg. 26.406, Permit renewal application, that a timely permit renewal application is one that is received by the Department at least 6 months before the permit expires;
- (d) Modifying Reg. 26.801, Applicant's duty to apply for alternative scenarios, to remove language so the section applies to any permit granted under Regulation 26;
- (e) Updating Reg. 26.1002, Minor permit modification applicability, to describe the levels of emissions increases the minor permit modification procedures may be used. These levels are as follows: 75 tons per year (tpy) of carbon monoxide, 40 tpy of nitrogen oxides, 40 tpy of sulfur dioxide, 25 tpy of particulate matter, 15 tpy of particulate matter that is 10 micrometers in diameter or smaller, and 40 tpy of volatile organic compounds; and
- (f) Updating formatting, correcting typographical errors and inconsistencies in the regulation, and updating it to conform to state law.

3. The proposed changes to Regulation Number 26 do not require an economic impact/environmental analysis because some of the proposed changes are not expressly addressed by a Federal requirement. Those changes that are not expressly addressed by a Federal requirement are expressly addressed by a federal requirement and are equivalent to those requirements.

4. The proposed changes to Regulation Number 26 are exempt from the requirements of Act 143 of 2007. As such, a review by the Arkansas Economic Development Commission (AEDC) is not required.

5. Mike Bates or other Air Division staff 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 a financial impact statement for the proposed revision is attached as Exhibit "C", both of which are incorporated by reference. An analysis of the impact to small business required pursuant to Act 143 of 2007 (formerly Executive Order 05-04), is attached as Exhibit "D" and hereby incorporated by reference. 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 Number 26.

Respectfully Submitted,
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ENVIRONMENTAL QUALITY
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