

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 26, REGULATIONS OF THE ) DOCKET NO. 08-009-R  
ARKANSAS OPERATING AIR PERMIT )  
PROGRAM

STATEMENT OF BASIS AND PURPOSE  
FOR REGULATION NO. 26, REGULATIONS OF THE ARKANSAS OPERATING AIR  
PERMIT PROGRAM

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Pursuant to Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department").

On June 13, 2008, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 26, Regulations of the Arkansas Operating Air Permit Program. The ADEQ proposes adoption of revisions to Regulation 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. In a separate petition, ADEQ proposes adoption of changes to Regulation Number 18 and Regulation Number 19 contingent upon the Commission promulgating Regulation Number 26. ADEQ requests that the Commission consider the adoption of rulemaking associated with the promulgation of Regulation Number 26 to be contingent upon the Commission's decision to adopt rulemaking to amend Regulation Number 18 and Regulation Number 19 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 adopted simultaneously; and
- (b) Regulations containing different permitting thresholds could cause confusion and unequal treatment of sources.

The proposed regulatory amendments involve the following:

- (a) Adding a definition of “EPA” and a clarifying 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 applications, 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.

These changes will allow more flexibility for the regulated community so they can better respond to market changes. Additionally, regulatory burden will be reduced on affected businesses. The changes will allow the Department to focus our resources on sources which have a greater potential to impact the environment. The changes are consistent with and allowable under federal programs. The proposed changes are protective of air quality in the state and will not affect attainment goals. The changes also clarify existing regulatory language, correct and update formatting and remove duplicative language from other Arkansas Pollution Control and Ecology Commission regulations.

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