

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04 and Act 143 of 2007: Regulatory Flexibility**

Department Arkansas Department of Environmental Quality

Divisions Air Division

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Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation Number 26

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

The changes to Regulation Number 26 are being proposed in response to the United States Environmental Protection Agency's ("EPA") June 3, 2010, Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule ("Tailoring Rule"). The Tailoring Rule requires that greenhouse gases be subject to regulation under the Clean Air Act. Carbon dioxide is one of the gases listed in the Tailoring Rule as a greenhouse gas. The Arkansas Pollution Control and Ecology Commission's ("Commission") Regulation Number 26 currently excludes carbon dioxide from being an air contaminant. For state regulations to incorporate the necessary regulatory requirements to implement EPA's Tailoring Rule, the exclusion of carbon dioxide from air contaminant needs to be removed. The proposed amendments to Regulation Number 26 also include the addition of definitions for "greenhouse gases" and "carbon dioxide equivalents." The definition of "Regulated Air Pollutant" has been updated to include greenhouse gases and the definition of "Major Source" has been modified with the inclusion of threshold limits specific to greenhouse gases. The term "air pollutant" has been included in the definition of "air contaminant." Language is being proposed to ensure emission levels under 75,000 tons per year will be considered "De Minimis" and increases of greenhouse gases under this level will not require a major permit modification. These amendments will modify ADEQ's Title V permitting program to match EPA's Tailoring Rule, so that beginning January 2, 2011, facilities currently subject to either the Prevention of Significant Deterioration or the Title V permitting program, will be required to include greenhouse gases in their permits if they increase their emissions of greenhouse gases by 75,000 tons of carbon dioxide equivalent per year. On July 1, 2011, the requirements will also apply to preconstruction permits for facilities that emit at least 100,000 tons of greenhouse gases and existing facilities that increase their emissions by at least 75,000 tons per year, even if they do not exceed thresholds for other pollutants. Making these changes will maintain consistency between Federal air pollution control programs and the Commission's regulations governing air pollution in Arkansas, as well as maintain consistency across air pollution regulations.

2. What are the top three benefits of the proposed rule or regulation?

1) Inclusion of greenhouse gases into the Commission's regulations and ADEQ's PSD permitting program aligns the program with EPA's regulatory intention found in the Tailoring Rule.

2) The addition of greenhouse gas emissions at levels under 75,000 tons per year to De Minimis threshold levels will prevent trivial increases of greenhouse gases from requiring a major permit modification.

3) Making the proposed changes will allow the Commission to incorporate the necessary regulatory requirements to implement EPA's Tailoring Rule within Regulations Number 19 and 26 and maintain consistency between these regulations.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Taking no action on this amendment would cause the regulations of the Commission regarding air contaminants to be misaligned with the EPA's Tailoring Rule that defines greenhouse gases as subject to regulation. This difference in state and federal regulations could cause confusion for the regulated community and may present conflicts between state and federal regulations. Not acting on these amendments could cause ADEQ to lose permitting authority, permitting authority to default to the EPA, or significant delays for businesses applying for operating permits. Lastly, not making these changes could lead to the withholding of federal funding for the administration of pollution control programs delegated to the state.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

There are no known market-based alternatives or voluntary standards that can be considered in place of the proposed amendments to Regulation Number 26.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing recordkeeping, auditing and inspecting associated with this new rule or regulation.

The costs of the proposed amendments to Regulation Number 26 to the state government are unknown at this time.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

The proposed amendments will not create any new compliance requirements for small businesses.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

The proposed amendments will not create any barriers to entry.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

The proposed amendments will not create any new compliance requirements for small businesses.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

The proposed amendments will contain a threshold for which only the requirements of the regulation apply. The threshold is set to only affect the largest emitters of this pollutant.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

The proposed amendments do not create any new compliance requirements for small businesses. Accordingly, there are no changes that small businesses will need to implement.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

EPA has promulgated the final Tailoring Rule and established all associated compliance dates and emission thresholds. The proposed amendments are designed to be no more, or no less stringent than the Tailoring Rule. All states maintaining control of their delegated air pollution control programs will be required to comply with program revisions that are no less strict than the Tailoring Rule.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

ADEQ has not received any input from small businesses or small business advocates at this time.