

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
 DIVISION Air Division
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 NAME OF PRESENTER AT COMMITTEE MEETING Karen Bassett or Mike Bates
 PRESENTER E-MAIL bassett@adeq.state.ar.us or bates@adeq.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

- 1. What is the short title of this rule?
Regulation Number 26
- 2. What is the subject of the proposed rule?
Arkansas Pollution Control and Ecology Commission Regulation Number 26, Arkansas Regulations of the Arkansas Operating Air Permit Program
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
 If yes, please provide the federal rule, regulation, and/or statute citation.
Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, ("Tailoring Rule") Published in the Federal Register June 3, 2010.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
 Yes No
 If yes, what is the effective date of the emergency rule? _____
 When does the emergency rule expire? _____
 Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes _____ No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

See the attached Petition to Initiate Rulemaking for a summary and Exhibit A for a mark-up copy of the changes.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

A.C.A §8-4-201, §8-4-202, and §8-4-311.

7. What is the purpose of this proposed rule? Why is it necessary?

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.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

http://www.adeq.state.ar.us/regs/drafts/draft_regs.htm

9. Will a public hearing be held on this proposed rule? Yes X No _____
If yes, please complete the following:

Date: March 8, 2011

Time: 1:00 PM

Place: ADEQ Commission Room, 5301 Northshore Drive, North Little Rock, AR

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
March 22, 2011

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
On or about July 15, 2011

12. Do you expect this rule to be controversial? Yes ___ No X If yes, please explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.
ADEQ held a stakeholder briefing on December 15, 2010, to announce the proposed regulation revisions. Potential commentors and positions are unknown at this time.