

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

Department: Arkansas Department of Environmental Quality ("ADEQ")

Divisions: Air Division

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Date: June 8, 2012

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Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation No. 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 No. 26 are being proposed in response to the United States Environmental Protection Agency's ("EPA") Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration ("PSD") and Title V Programs, (76 FR 43490, July 20, 2011). This Final Rule defers until July 21, 2014, the application of the PSD and Title V permitting requirements to carbon dioxide ("CO₂") emissions from bioenergy and other biogenic stationary sources ("biogenic CO₂"). The Arkansas Pollution Control and Ecology Commission's ("Commission") Regulation No. 26 currently does not exempt biogenic CO₂ emissions from applicability purposes under the PSD permitting program, making the state rule more stringent than the federal rule. Therefore, it is necessary to amend the regulation to implement EPA's deferral for biogenic CO₂ emissions.

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

1) Inclusion of EPA's biogenic CO₂ emissions applicability deferral for PSD and Title V permitting requirements into Regulation No. 26 makes the regulation consistent with and no more stringent than applicable federal regulations.

2) Making the proposed changes will allow the Commission to incorporate the necessary regulatory requirements to implement EPA's deferral for biogenic CO₂ emissions from bioenergy and other biogenic stationary sources within Regulation No. 26.

3) This proposed change will give regulated sources clarification of the applicability of biogenic CO₂ emissions permitting programs.

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 biogenic CO₂ emissions to be more stringent than federal rules regarding regulation. This difference in state and federal regulations could cause confusion for the regulated community, may present conflicts between state and federal regulations, and could lead to detrimental economic effects for the State of Arkansas.

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 No. 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 proposed amendments to Regulations No. 26 will not create substantial costs to the state government.

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 permitting applicability deferral for CO₂ emissions, from stationary sources that emit biogenic CO₂, which can affect mostly large sources (e.g. electric utilities burning biomass fuels, wood products manufacturing, pulp and paper manufactures, etc.).

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?

This proposed emergency rule will enable Arkansas to conform to EPA's Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources Final Rule immediately. The proposed amendments are

designed to be no more, or no less stringent than EPA's biogenic CO₂ emissions Final Rule. The proposed rule allows the biogenic CO₂ emissions to be deferred from Arkansas's Title V permitting program under the State's regulations.

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 received supportive comments regarding the proposed rule change from small business representatives.