

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF)
PROMULGATING REGULATION)
NUMBER 31, NONATTAINMENT)
NEW SOURCE REVIEW REQUIREMENTS)

Docket No. 06-____-R

PETITION TO INITIATE RULEMAKING
TO PROMULGATE REGULATION NUMBER 31,
NONATTAINMENT NEW SOURCE REVIEW REQUIREMENTS

The Arkansas Department of Environmental Quality (hereinafter ADEQ, or the Department), for its Petition to Initiate Rulemaking to Promulgate Regulation Number 31, Nonattainment New Source Review Requirements, states:

1. The Department requests that the Commission Initiate Rulemaking to promulgate Regulation Number 31 entitled "Nonattainment New Source Review Requirements". Regulation Number 31 incorporates the federal requirements contained in 40 CFR Part 51.160-165. Regulation Number 31 contains the permitting requirements for major sources in nonattainment areas as well as the provisions of Chapter 12 (entitled "Nonattainment areas") of Regulation Number 19 (entitled "Regulations of the Arkansas Plan of Implementation for Air Pollution Control"). In Regulation Number 31, the State establishes an economic development zone for Crittenden County. By separate petition, the Department proposed the repeal of Chapter 12 of Regulation Number 19 contingent upon the Commission promulgating Regulation Number 31. The Department requests that the Commission consider

the initiation of rulemaking associated with the promulgation of new Commission Regulation Number 31 to be contingent upon the Commission's decision to initiate rulemaking to repeal Chapter 12 of Regulation Number 19. The Department makes this request to avoid the potential of either of two possible results:

a. There are no nonattainment provisions contained in any Commission regulation if the Commission repeals Chapter 12 of Regulation Number 19 without initiating rulemaking to promulgate Regulation Number 31; or

b. There are duplicate nonattainment provisions in two Commission regulations if the Commission does not repeal Chapter 12 of Regulation Number 19 and initiates rulemaking to promulgate Regulation Number 31.

2. Proposed Regulation Number 31 contains the permitting requirements for major sources located in nonattainment areas and establishes an economic development zone in Crittenden County. A marked-up version of Regulation Number 31 is attached as Exhibit A and is hereby incorporated by reference.

3. The initiation of rulemaking to promulgate Regulation Number 31 does not require an economic impact/environmental benefit analysis because the provisions of the proposed regulation are equivalent to federal requirements.

4. The Arkansas Department of Economic Development reviewed proposed Regulation Number 31 and found that it is exempt from

the requirements of Executive Order 05-04 because it substantially codifies existing state or federal law.

5. Attached to this petition and incorporated by reference are documents as follows:

- a. Legislative Questionnaire (Exhibit B);
- b. Financial Impact Statement (Exhibit C);
- c. Economic Impact Statement of Proposed Rules or Regulations Executive Order 05-04: Regulatory Flexibility and the response from the Arkansas Department of Economic Development (Exhibit D);
- d. Economic Impact/Environmental Benefit Analysis (Exhibit E); and
- d. Proposed Minute Order (Exhibit F).

6. ADEQ employees, Becky Keogh, Deborah Pitts, or Mike Porta will be available to answer questions concerning this proposed rulemaking.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and promulgate proposed Regulation Number 31 contingent upon the initiation of rulemaking associated with the repeal of Chapter 12 of Regulation Number 19.

Respectfully Submitted,

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY
8001 National Drive P.O. Box 8913
Little Rock, Arkansas 72219-8913

By: Deborah Pitts