

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 9, PERMIT FEE) DOCKET NO. 11-007-R
REGULATIONS)

STATEMENT OF BASIS AND PURPOSE FOR REGULATION NO. 9,
PERMIT FEE REGULATIONS

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 November 18, 2011, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 9, Permit Fee Regulations. The revisions to the Permit Fee Regulations are the result of federal regulatory changes enacted or promulgated since June 3, 2010. The proposed amendments to Regulation No. 9 were precipitated by the following:

Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, *75 FR 31514, June 3, 2010*; Finding of Substantial Inadequacy and SIP Call, *75 FR 77698, December 13, 2010*.

Amendment of Regulation No. 9 is necessary in order to prevent imposition of fees on emissions of carbon dioxide and methane which would occur as a result of changes made to other air regulations (Regulation Nos. 19 and 26) that conform to statutory language affected by the above-referenced federal rules, and to incorporate changes into Arkansas's air permitting program related to the regulation of carbon dioxide and methane.

The areas addressed by the amendments adopted by the Commission are:

1. Legislative and Federal Regulatory Change.

(A) inclusion of carbon dioxide into the regulatory definition of “greenhouse gases.”

2. Change proposed by the Department.

(A) exclusion of methane and carbon dioxide from being chargeable emissions in order to keep the air permit program’s fee structure the same.

The Commission finds that the proposed revisions to Regulation No. 9 facilitate implementation of the substantive statutes administered by the Department regarding greenhouse gas emissions. These rules are in the public interest, and are necessary to ensure compliance with federal law.

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