

POLLUTION CONTROL
& ECOLOGY COMMISSION
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BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 26, REGULATIONS OF)
ARKANSAS OPERATING AIR PERMIT)
PROGRAM) DOCKET NO. 14__-R

011

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NO. 26, REGULATIONS OF THE ARKANSAS OPERATING AIR PERMIT PROGRAM

Comes now, the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "the Department"), for its Petition to Initiate Rulemaking to Amend Arkansas Pollution Control & Ecology Commission (hereinafter "APC&EC" or "Commission") Regulation No. 26, Regulations of the Arkansas Operating Air Permit Program, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation No. 26, Regulations of the Arkansas Operating Air Permit Program.
2. The proposed regulatory amendments are as follows:
 - a) Substantive changes are proposed to Regulation No. 26 that include revised federal rules for the 2012 National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM_{2.5}) under the "Minor permit modification applicability" section at 26.1002. On January 15, 2013, EPA published a final rule updating the PM_{2.5} NAAQS which revised the new primary annual averaging time to 12.0 micrograms per cubic meter ("µg/m³"). In response, ADEQ proposes an applicability threshold of 10 tons per year of direct PM_{2.5} emissions for allowing a source to make changes without a public notice process or a preconstruction permit at Reg. 26.1002.
 - b) Another substantive change is the proposed update of the incorporation date for Global Warming Potentials to November 29, 2013, at Chapter 2 within the definition of "CO₂ equivalent emissions" which will include federal revisions.
 - c) Another substantive change is the proposed update of the incorporation date for federal Part 70 rules to June 3, 2010, throughout Regulation No. 26 that will include federal revisions.

- d) The final substantive change is the proposed addition of a definition for “Emission increase” at Chapter 2, consistent with the definition currently proposed for Regulation No. 19.
- e) Non-substantive revisions made for clarification, consistency, or to update typographical errors throughout Regulation No. 19 include:
 - i. deleting the temporary biomass exemption (language expired on July 21, 2014) from Chapter 2, within the definition of “CO₂ equivalent emissions;”
 - ii. renumbering section 26.1002(A);
 - iii. clarifying listed numbers by also spelling them out, e.g., “twelve (12),” throughout the regulation;
 - iv. adding hyphens to “nonmajor,” “noncompliance,” and “noninstrumental,” throughout the regulation;
 - v. correcting “CFR” to “C.F.R” throughout the regulation;
 - vi. correcting “A.C.A.” to “Ark. Code Ann.” throughout the regulation; and
 - vii. deleting duplicate section symbols (“§”) where not appropriate.


3. The proposed changes to Regulation No. 26 have been sent for review by the Department to the Arkansas Economic Development Commission (“AEDC”) as required Under Act 143 of 2007.

4. Mike Bates or other Air Division staff from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the Regulation No. 26 showing the proposed changes is attached as Exhibit “A,” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit “B,” and a copy of a Financial Impact Statement for the proposed revision is attached as Exhibit “C,” both of which are incorporated by reference. A memo to the Commission and an electronic mail message to the AEDC regarding compliance with Act 143 of 2007 (formerly Executive Order 05-04), are attached as Exhibit “D,” and the associated Economic Impact Statement is attached as Exhibit “E;” both are hereby incorporated by reference. Parts of this rulemaking are not exempt from the Economic Impact/Environmental Benefit Analysis (“EIEBA”) requirement under Reg. 8.812. Although most of the substantive proposed additions incorporate language from federal regulation without substantive change, and the non-substantive proposed additions make only de minimis changes

to the existing regulation and correct typographical errors, some substantive revisions are not directly incorporated from existing federal law. The proposed threshold at Reg. 26.1002 and the addition of the definition for "Emission increase" are not tied directly to federal rule. For these revisions, an EIEBA is attached as Exhibit "F," and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "G," and is hereby incorporated by reference. During the public comment period, ADEQ will take comments on when an analysis would be required to evaluate impacts on the National Ambient Air Quality Standards during the permitting process. Additionally, ADEQ will take comment on requirements for such an analysis, when required.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation No. 26.

Respectfully Submitted,
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By: 
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