

# REGULATION FORMATTING AND DRAFTING GUIDELINES



By the Arkansas Department of Environmental Quality and  
Arkansas Pollution Control and Ecology Commission

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## TABLE OF CONTENTS

Introduction .....	4
Formatting Requirements .....	4
Software.....	4
Fonts .....	4
Tabs .....	4
Deleting language .....	4
Adding language .....	4
Use of Justify .....	4
Use of Bold .....	4
Page Numbering .....	4
Table of Contents .....	4
Definitions .....	5
Chapter and Section Numbering .....	5
Stylistic Requirements .....	5
Topics .....	5
Acronyms .....	5
Statutory Authority .....	5
Natural Disasters .....	5
Department definition .....	5
Effective date language .....	5
Preparation for Initiation of Rulemaking .....	5
Preparation Deadlines .....	5
Economic Impact Statement .....	5
Public Notice & Hearing Dates .....	6
ADEQ Review .....	6
Agenda Deadline .....	6
Packet Contents for Initiation of Rulemaking .....	6
Petition to Initiate Rulemaking .....	6
Regulation Cover Page .....	6
Secretary of State Numbering .....	7
Title .....	7
Seal .....	7
Cover Dates .....	7
Legislative Questionnaire .....	7
Financial Impact Statement .....	7
ADED Approval Letter .....	7
Economic Impact/Env. Benefit Analysis .....	8
Proposed Minute Order .....	8
Copies .....	8

Post-Commission Approval to Initiate .....8  
    Copies .....8  
    Legislative Council .....8  
    Public Hearing .....9  
    Response to Comments .....9

Petition for Final Approval .....9  
    Packet Contents .....9  
    Email Submission .....10

Post-Commission Approval ..... 10

Appendix Index .....11

# GUIDELINES FOR ADEQ AND THIRD PARTY REGULATION DRAFTERS

## **I. INTRODUCTION**

Any person may petition the Arkansas Pollution Control and Ecology Commission for the issuance, amendment, or repeal of a rule or regulation. The guidelines and samples of forms are set out below. Unless stated otherwise, these guidelines are applicable to both the Arkansas Department of Environmental Quality (ADEQ) and Third Parties.

**Third Parties:** Any third party having a question concerning the guidelines or forms should contact Charles Moulton, Administrative Law Judge. See Appendix 1 for contact information.

**ADEQ Staff:** Any ADEQ staff member having questions concerning the guidelines or forms should contact ADEQ's Legal Division's Regulation Coordinator. See Appendix 1 for contact information.

## **II. FORMATTING REQUIREMENTS**

A. The only acceptable word processing software to use is Microsoft Word.

B. Use the fonts: Times New Roman, Arial or Courier New. Use of any other fonts, especially printer fonts, may cause the printed and electronic versions of the regulation to differ in line breaks and/or pagination.

C. Use tabs to set columns and indents, not spaces. Use Break to force a page break, not multiple paragraphs.

### **D. Formatting**

1. **Deleting language.** Strike through language to be deleted. For example: The purpose of the regulation is to promote proper use of ~~natural~~ resources.

2. **Adding language.** Underline any new language. For example: The purpose of the regulation is to promote proper use of the state's natural resources.

3. Justify all paragraphs.

4. Bold all headings.

5. **Page numbering.** Use Microsoft Word's automatically generated page numbers. Page numbers should be placed at the bottom center of the page. The table of contents should be numbered with small Roman numerals. For example, i, ii, iii, iv, etc. The following page numbers are to be hyphenated relating to the chapters of the regulation. The first number corresponds to the section or chapter number and the second number is the page number within a section. For example, Chapter 1 would be numbered 1-1, 1-2, 1-3, etc. For Appendices, the system would be A-1, A-2, A-3, etc.

6. Table of Contents. Page numbers, paragraph numbers, and paragraph headings should be reflected in a Table of Contents. (See Appendix 2).
7. Definitions. Definitions do not need to be numbered. Boldface the defined words.
8. Chapter and Section Numbering. Each section of the regulation must be numbered to reflect the regulation, chapter and section numbers. For example, Regulation 12, Chapter 3, Section 7 would be numbered, Reg.12.307. The headings must reflect the intent of the paragraph. Underline the section title. Do not underline the section number. For example: “Reg.12.307 Deductible” . **DO NOT** place periods at the end of each heading title or subsection number.

### **III. STYLISTIC REQUIREMENTS**

- A. Limit each paragraph to a single topic or subtopic.
- B. Do not use any acronyms in the regulation. Spell out all references. For example: “Arkansas Department of Environmental Quality,” not “ADEQ.” The Commission must be referred to as the “Arkansas Pollution Control and Ecology Commission.”
- C. Statutory Authority: The Act or statute authorizing the rule or regulation must be cited in the regulation.
- D. Natural Disasters: The phrase “Act of God” must be replaced, if present, with the term “natural disasters.”
- E. The following definition must be included in all regulations: “Department means the Arkansas Department of Environmental Quality, or its successor.”
- F. The following language must be included in the body of all regulations: “This regulation is effective ten (10) days after filing with the Secretary of State, the State Library and the Bureau of Legislative Research.”

### **IV. PREPARATION FOR INTIATION OF RULEMAKING**

#### **A. PREPARATION DEADLINES - Failure to meet any deadline may result in delaying initiation of proposed regulation.**

1. Act 759 of 2013 may have repealed the need to assess the economic impact a rule may have on small businesses and the need to prepare an economic impact statement. However Regulation No. 8 has not been modified to reflect Act 759 of 2013 and the Governor has issued EO 02-15 which has, as its stated purpose, is to prohibit unnecessary rules and regulations that burden business. Executive Order 15-02 also requires all new rules to be submitted to the Governor’s office in order for the Governor to determine whether a proposed rule or regulation will unnecessarily burden business. In light of EO 15-02 the Commission recommends the current economic impact/environmental benefit analysis continue to be performed by ADEQ and Third-Parties..

2. **Applicable to ADEQ and Third Parties:** Provide Governor’s office a copy of rulemaking packet consistent with Executive Order 15-02.
3. **Applicable to ADEQ and Third Parties:** Contact ADEQ Public Outreach and Assistance Division to schedule public notice dates and hearing dates. Include scheduled dates in draft minute order.
4. **Applicable to ADEQ Only:** At least thirty (30) days before the date on which regulation packet is to be filed with the Commission:
  - i. The packet must be submitted to the Legal Division Regulation Coordinator for formatting review.
  - ii. Following the Regulation Coordinator’s review, revised regulation packet must then be routed through the Fiscal Division, the Legal Division and the Director’s Office for review and approval.
5. **Applicable to ADEQ and Third Parties:** The Commission’s filing deadline is approximately two (2) weeks before the scheduled Commission meeting. Check with the Commission secretary for exact deadline date. The proposed regulation packet must be submitted by the filing deadline or it will not be placed on that month’s agenda.

**B. PACKET CONTENTS FOR INITIATION OF RULEMAKING**

A Petition to Initiate Rulemaking (hereinafter “rulemaking packet” or “packet”) must be filed with the Commission stating the reasons for revising the regulation and requesting that the Commission initiate the rulemaking process. The petition must cite to the specific statute that gives the Commission the authority to adopt the proposed rule. See Appendix 4.

The Petition shall include the following exhibits:

1. **Exhibit A:** Proposed Regulation<sup>1</sup> which includes the following:
  - i. **Cover Page**  
Every rule revision, even if it is changing one line in the rule, must include a proposed cover page. See Appendix 3. The cover page must include the following:
    - a. **Secretary of State Numbering.** The Secretary of State requires that its system for identifying a regulation is to be inserted at the top, right hand corner of the cover page.

For example: Pollution Control and Ecology Commission 014.00-0??; where the last two digits are the regulation’s number. The number that identifies Regulation

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<sup>1</sup> In the majority of cases, any change to a regulation requires submittal of the entire regulation to the Commission. However, if the proposed changes to regulation are limited, contact Administrative Law Judge for special instructions.

No. 23 would be 014.00-023 or Regulation No. 2 would be 014.00-002.

b. The cover page should be titled: **Arkansas Pollution Control and Ecology Commission**, with the number of the regulation and the regulation title below.

c. The seal used on the cover page must be the seal of the State of Arkansas.

d. Cover Dates

1. Initial Draft

a. The initial draft should state the month and year in which the draft regulation will first be submitted to the Commission. For example: “Submitted to the Commission in August 2007.”

b. The cover must include the words “Initial Draft” at the bottom of the cover page above the submitted date. Do not use the watermark feature of Microsoft Word.

2. Final Draft: The date on the cover page of the final draft will be the date of the Commission meeting during which it will consider adoption of the final proposed regulation. For example: Approved by the Pollution Control & Ecology Commission on December 4, 2006. See Appendix 5.

ii. Table of Contents;

iii. Title of Regulation;

iv. Purpose, Scope and Applicability;

v. Definitions;

vi. Main Body of the Text; and

vii. Appendices.

2. Exhibit B: Governor’s approval letter, email, or similar correspondence consistent with Executive Order 15-02.

3. Exhibit C: The Legislative Questionnaire (See Appendix 6);

4. Exhibit D: The Financial Impact Statement (See Appendix 7);

5. Exhibit E: Economic Impact/Environmental Benefit Analysis

6. Exhibits F: Other exhibits which may include a study, a report, or any other information the petitioner deems relevant.

7. Exhibit [last letter of total exhibits]: The proposed Minute Order which is always the last exhibit in the rulemaking package. **Third Parties**: See Appendix 9; **ADEQ**: See

Appendix 10.

**C. COPIES**

1. File the original and three (3) copies of the proposed rulemaking packet with the Commission.
2. **ADEQ Only:** After filing the proposed packet with the Commission, email a pdf copy of the packet to the Commission Secretary for publication to the website.
3. **Third Parties Only:** At the time of filing the petition to initiate rulemaking, provide a CD (disk) of the filed materials in PDF format to the Commission Secretary for publication to the website. One disk must be submitted to the Commission Secretary containing each pleading, document and/or exhibit as a separate, clearly labeled PDF file along with a word copy of the minute order.

**V. ACTIONS TO TAKE FOLLOWING INITIATION OF RULEMAKING**

**A. COPIES**

1. On the Monday following the Commission Meeting during which the petition to initiate rulemaking was approved, file with the Public Outreach and Assistance Division of ADEQ:
  - i. **For ADEQ Only:**
    - a. The petition and all attachments, the number of which is to be determined by the Public Outreach and Assistance Division; and
    - b. Fifty (50) copies of a one-page executive summary.
  - ii. **For Third Parties Only:**
    - a. One (1) draft public notice;
    - b. The petition and all attachments, the number of which is to be determined by the Public Outreach and Assistance Division of ADEQ;
    - c. Fifty (50) copies of a one-page executive summary; and
    - d. A check to cover the cost of publication of public notice. (Check with the Public Outreach and Assistance Division for the exact amount.)

**B. LEGISLATIVE COUNCIL**

Approval must be obtained from the Administrative Rules and Regulations Committee and the Public Health and Welfare Committee of the Arkansas Legislature before the proposed regulation may be submitted to the Commission for final adoption.<sup>2</sup> Please note that the following items will be scheduled by the Public Outreach and Assistance Division of ADEQ to take place after the Responsive Summary is completed. (See Section D, below.)

1. One week after public notice runs, contact the Public Outreach and Assistance Division of

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<sup>2</sup> If a regulation involves a mining matter, then approval must be sought from the Administrative Rules and Regulations Subcommittee and the House & Senate Interim Committees on Agriculture and Economic Development Committee.



ADEQ to coordinate completion of document for submission to the Legislative Council of the Arkansas General Assembly and scheduling of public hearing.

2. -After coordinating document completion with Public Outreach and Assistance, call the Subcommittee on Administrative Rules and Regulations, Arkansas Legislative Council, 501-682-1937, to confirm that the proposed regulation has been placed on the Committee's agenda. Attend on scheduled date prepared to answer any questions.
3. After coordinating document completion with Public Outreach and Assistance, call Public Health and Welfare Committee to confirm being placed on Committee's agenda. Attend on scheduled date prepared to answer any questions.

### **C. PUBLIC HEARING**

Two (2) weeks before the scheduled public hearing, contact Public Outreach and Assistance Division of ADEQ regarding preparations for the public hearing.

### **D. RESPONSE TO COMMENTS**

1. **For ADEQ and Third-Parties:** At the end of the public comment period, prepare a Responsive Summary whether or not any comments are received.
2. Make any necessary revisions to the regulation based on the public comments. Note: If changes are made that are not a logical outgrowth of the proposed regulation, it may require a second public notice and public comment period.

## **VI. PETITION FOR FINAL APPROVAL**

**A. PACKET CONTENTS** – At least twenty-one (21) days before the Commission meeting during which adoption will be sought, ADEQ or the Third Party must submit to the Commission an original and three (3) copies of a Motion to Adopt Changes. See Appendix 11.

The Motion must have the following exhibits attached:

1. Exhibit A: Statement of Basis and Purpose signed by the preparer (See Appendix 12);
2. Exhibit B: Responsive Summary signed by the preparer (See Appendix 13);
3. Exhibit C: The final revised regulation without strikethroughs or markups. The cover sheet must indicate at the bottom, "Approved by Arkansas Pollution Control and Ecology Commission: [insert anticipated date of Commission approving adoption]," (See Appendix 14);
4. Exhibit D: Regulation Tracking Sheet (See Appendix 15);
5. Exhibit E: Approval from Governor's office and Legislative Council Committees;
6. Exhibit F: Proposed Minute Order adopting the proposed revisions (See Appendix 16). Include names of current Governor and ADEQ Director on the Minute Order. Check

Commission website for names of current Commissioners to include on the Minute Order.

**B. EMAIL SUBMISSION**

1. **For ADEQ and Third Parties:** After filing final packet with the Commission, email a word copy of the Proposed Minute Order to the Commission Secretary.
2. **For ADEQ Only:** After filing final packet with the Commission, email a pdf copy of the final packet to the Commission Secretary for placement on the web.
3. **For Third Parties Only:** When filing final packet with the Commission, provide a CD (disk) in PDF format of the final packet to the Commission Secretary for placement on the web. One disk must be submitted to the Commission Secretary containing each pleading, document and/or exhibit as a separate, clearly labeled PDF file. Email or provide a separate CD (disk) in Microsoft Word format of the final packet to ADEQ.

**VII. POST COMMISSION APPROVAL – FOR ADEQ ONLY**

- A. ADEQ will prepare twenty-one (21) copies and one (1) CD (disk) of the approved regulation which was contained in the final packet and submit the copies and the disk to the Commission Secretary.
- B. The Commission Secretary will file the regulation with the Secretary of State, Arkansas State Library, and Bureau of Legislative Research. The Secretary will notify ADEQ of the filing date of the regulation by sending ADEQ a copy of the Secretary of State's Transmittal Sheet. The effective date of the regulation will be ten (10) days after the date contained in the file-mark on the Transmittal Sheet.
- C. After receiving the Transmittal Sheet, ADEQ will redraft the regulation cover sheet by placing effective date on the bottom of the cover sheet. See Appendix 17. ADEQ will also attach the Secretary of State Transmittal Sheet and the Commission Minute Order adopting the regulation behind any appendices in the final version of the regulation. The regulation with these attachments will constitute the final version of the regulation.
- D. ADEQ will then convert final regulation, with cover sheet showing effective date and the attachments, into PDF format.
- E. ADEQ will email the PDF version of regulation to Legal Division's Regulation Coordinator (See Contacts List).

# REGULATION FORMATTING AND DRAFTING GUIDELINES

## APPENDICES

APPENDIX 1: Contacts List .....

APPENDIX 2: Links To Recent And Archived Rulemaking Dockets.....

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# APPENDIX 1

## Contacts List

<b>Name</b>	<b>Title</b>	<b>Agency</b>	<b>Phone</b>	<b>Email</b>
<b>Charles Moulton</b>	<b>Adm. Law Judge</b>	<b>APC&amp;EC</b>	<b>(501) 682-7892</b>	<a href="mailto:moulton@adeq.state.ar.us"><u>moulton@adeq.state.ar.us</u></a>
<b>Goff, Pat</b>	<b>Commission Secretary</b>	<b>APC&amp;EC</b>	<b>(501) 682-7890</b>	<a href="mailto:goffpatti@adeq.state.ar.us"><u>goffpatti@adeq.state.ar.us</u></a>
<b>Jake Harper</b>	<b>Communications Specialist</b>	<b>ADEQ Public Outreach &amp; Communications</b>	<b>(501) 683-6977</b>	<a href="mailto:harper@adeq.state.ar.us"><u>harper@adeq.state.ar.us</u></a>
<b>Michael McAlister</b>	<b>Managing Attorney</b>	<b>ADEQ Legal Division</b>	<b>(501) 682-0918</b>	<a href="mailto:mcalister@adeq.state.ar.us"><u>mcalister@adeq.state.ar.us</u></a>
<b>Davis, Donna</b>	<b>Sub-Committee on Adm. Rules and Regs</b>	<b>Bureau of Research</b>	<b>(501) 682-1937</b>	<a href="mailto:donna@blr.arkansas.gov"><u>donna@blr.arkansas.gov</u></a>
	<b>Public Health and Welfare Committee</b>	<b>Legislative Council</b>	<b>(501) 537-9180</b>	

## APPENDIX 2

Prior to filing a rulemaking request with the Commission parties should examine the Commission website for recent rulemaking filings. Forms from the Legislative Council are periodically updated so parties are advised to contact the Bureau of Legislative Research , the Legislative Council, and the Arkansas Economic Development Commission for current forms. The composition of the Commission also changes and parties should check the Commission website for a list of current Commissioners as well as the Chair of the Commission.

Two recent rulemaking dockets:

<https://www.adeg.state.ar.us/regs/drafts/reg36/18-002-R/>

<https://www.adeg.state.ar.us/regs/drafts/reg12/17-003-R/>

These two dockets serve as an example of the rulemaking process from initiation, through public notice and comment, to final adoption.

Current draft rulemaking dockets on the Commission website can be located at:

[https://www.adeg.state.ar.us/regs/draft\\_regs.aspx](https://www.adeg.state.ar.us/regs/draft_regs.aspx).

Archived rulemaking dockets on the Commission website can be located at:

[https://www.adeg.state.ar.us/regs/archives/closed\\_dockets.aspx](https://www.adeg.state.ar.us/regs/archives/closed_dockets.aspx).