

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 9, PERMIT FEE REGULATIONS ) DOCKET NO. 03-\_\_\_-R

PETITION TO INITIATE RULEMAKING FOR REGULATION NO. 9,  
PERMIT FEE REGULATIONS

The Arkansas Department of Environmental Quality (hereinafter “ADEQ”), for its Petition to Initiate Rulemaking to Amend Regulation No. 9, states:

1. On February 12, 2003, EPA promulgated the NPDES System Permit Regulation and Effluent Limitations Guidelines and Standards for Concentrated Animal Feeding Operations (CAFOs), which became effective April 14, 2003. This regulation expanded the regulated universe for CAFOs, to include certain “dry litter” operations not previously covered. Also, in March 2003, EPA promulgated the “Phase II” storm water rules which apply to construction activities.
2. In order to facilitate implementation of these new regulatory programs, the Department proposes to initiate rulemaking on Regulation 9 primarily to add new general permit fees in the Water Permit fee provisions of Chapter 4 (Reg.9.404), including: (1) a \$100 fee for Concentrated Animal Feedlot—Dry Litter Disposal, (2) a \$200 general permit fee for Storm water (MS4 Phase II), and (3) a Sand and Gravel general permit fee of \$200. The changes being proposed are primarily cost neutral, with the exception of the general permit fees being added in Reg.9.404 (Water fees).

3. Additionally, the Department plans to file a Petition to Adopt Emergency Rulemaking to adopt the CAFO changes into Regulation 6.
4. Other changes proposed by the Department in this rulemaking include:
  - (A) Correction of typographical or grammatical errors;
  - (B) Clarification of the Department’s permit fee system throughout Regulation 9, regarding the application of initial, annual, and modification fees;
  - (C) Clarification regarding permit renewals and whether fees will be associated with those renewals;
  - (D) Clarification regarding administrative permit amendments; and
  - (E) “Housekeeping” changes throughout the regulation, including the deletion of redundant or unnecessary language, and other changes to promote consistency.
5. Jennifer Tucker, attorney for ADEQ, and/or Mary Leath, Chief Deputy Director, will be available to answer questions concerning this proposed rulemaking. A version of the regulation 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 hereby incorporated by reference. A proposed minute order is attached as Exhibit “D” and is hereby incorporated by reference.

WHEREFORE, the ADEQ requests that the Commission adopt the proposed Minute Order, and initiate the rulemaking on Regulation No. 9.

Respectfully submitted,

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By:

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