Pollution Control and Ecology Commission # 014.00-018

**ARKANSAS POLLUTION CONTROL**

**and ECOLOGY COMMISSION**

**RULE 18**



**ARKANSAS AIR POLLUTION CONTROL CODE**

FOR DISCUSSION PURPOSES ONLY

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CHAPTER 1: TITLE AND PURPOSE

Rule 18.101 Title

The following rules, adopted pursuant to Subchapter 2 of the Arkansas Water and Air Pollution Control Act (Arkansas Code Annotated [Ark. Code Ann.] § 8-4-101 *et seq.*) shall be referred to as the “Arkansas Air Pollution Control Code,” hereinafter the “Rule 18.”

Rule 18.102 Intent and Construction

(A) Rule 18 consists of those rules deemed necessary and desirable by the Commission for control of air pollution pursuant to its rulemaking mandates under State law [Ark. Code Ann. §§ 8-4-311 (b)(1) and 8-1-203(b)(1)]. Rule 18 should be construed as consistent with the “Legislative Intent and Purpose” of air pollution control regulations set out in Ark. Code Ann. §§ 8-4-301 and 302.

(B) By authority of the same State law, the Commission has also adopted Rule 19, and Rule 26, which deal exclusively with rules compelled by federal mandates and which are to some extent federally enforceable. It is the specific intent of Rule 18 to preclude federal enforceability of Rule 18 requirements. Rule 18 permits or permit conditions issued under its authority, or enforcement issues arising from Rule 18 shall not be deemed to be federally enforceable.

(C) To the extent consistent with State law and efficient protection of the State’s air quality, Rule 18 shall be construed in a manner that promotes a streamlined permitting process, mitigation of regulatory costs, and flexibility in maintaining compliance with regulatory mandates. Any applicable documents (e.g., “White Papers,” regulatory preambles, or interpretive memoranda) issued by the EPA or the Division that are consistent with this policy and the legislative intent of State laws governing air pollution control (Ark. Code Ann. § 8-4-301 *et seq*.) are aids for construing the requirements of Rule 18. Any procedure applicable to major stationary sources that promotes operational flexibility are presumed to be authorized by this Rule unless manifestly inconsistent with its substantive terms.

(D) In all applications of Rule 18, the Division and Commission shall be guided to a resolution that categorically assures that:

(1) The least possible injury will be done to human, plant, or animal life, or to property;

(2) The public enjoyment of the State’s air quality resources will be maintained; and

(3) The resolution is consistent with the economic and industrial well-being of the State.

Rule 18.103 Applicability

These Rules are applicable to any source that emits or has the potential to emit any air contaminant as defined in Chapter 2 of Rule 18.

Rule 18.104 Severability

If any provisions of Rule 18 or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Rule 18 that can be given effect without the invalid provision or application. The provisions of Rule 18 are severable.

Rule 18.105 Incorporation by Reference

Unless a contrary intent is expressly stated, any adoption or descriptive reference to another law shall be construed as though the reference law were set forth in Rule 18 line-by-line, word-for-word.

Rule 18.106 Pre-emption of Political Subdivision

To avoid conflicting and overlapping jurisdiction, the State occupies the field of control and abatement of air pollution and contamination; and no political subdivision of this State shall enact or enforce laws, ordinances, resolutions, or rules in this field; unless the laws, ordinances, resolutions, rules, or are for the purpose of prohibiting burning in the open or in a receptacle having no means for significantly controlling the fuel/air ratio.

Rule 18.107 Effective Date

Rule 18 is effective ten (10) days after filing with the Secretary of State, the State Library, and the Bureau of Legislative Research.

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CHAPTER 2: DEFINITIONS

When used in Rule 18:

**“Actual emissions**” means the quantity of air contaminants emitted from a stationary source considering emissions control equipment and actual hours of stationary source operation or amount of material processed.

**“Air contaminant”** means any solid, liquid, gas, or vapor or any combination thereof. The following shall not be considered air contaminants: water vapor, oxygen, carbon dioxide, nitrogen, hydrogen, and inert gases.

**“Air pollution”** means the presence in the outdoor atmosphere of one (1) or more air contaminants in quantities, of characteristics, and of a duration that are materially injurious or can be reasonably expected to become materially injurious to human, plant, or animal life or to property, or that unreasonably interfere with enjoyment of life or use of property throughout the state or an area of the state.

“**Ark. Code Ann.”** means the Arkansas Code Annotated

**“Business day”** means calendar day, excluding Saturdays, Sundays, and recognized public holidays.

**“Clean Air Act”** means the federal Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

**“C.F.R.”** means Code of Federal Regulations

**“Commission”** means the Arkansas Pollution Control and Ecology Commission.

**“Conditions of air pollution”** exists if the Director finds that the national ambient air quality standards have been exceeded in such area, or if the Director finds that extraordinary measures are necessary to prevent them from being exceeded.

**“Conditions of episodic air pollution”** in a given area shall be deemed to exist if the Director finds that meteorological conditions are such as to minimize the normal dispersion of air contaminants and that the following levels are determined to exist in a given area and that the levels can be reasonably expected to persist for twelve (12) or more hours or increase unless control actions are taken:

(A) Sulfur dioxide (SO2) of a concentration equal to or greater than 800 µg/m3 (1.3 ppm) for any twenty-four-hour average (where µg/m3 means micrograms per cubic meter and where ppm means parts per million);

(B) Particulate matter (PM) of a concentration equal to or greater than 375 µg/m3 for any twenty-four-hour average;

(C) The coefficient of haze (COH) is equal to or greater than three (3.0) for any twenty-four-hour average; or

(D) The product of sulfur dioxide (SO2) and particulate matter (PM) reported in µg/m3 for any twenty-four-hour average that exceeds 65,000.

**“Control apparatus”** means any device that prevents, controls, detects, or records the emission of any air contaminant.

**“Director”** means the director of the Division, or its successor, acting directly or through the staff of the Division.

**“Direct PM2.5 emissions”** shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “Direct PM2.5 emissions” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“Division”** means the Arkansas Department of Energy and Environment Division of Environmental Quality, or its successor. When Rule 18 makes reference to actions taken by or with reference to the Division, the reference is to the staff of the Division acting at the direction of the Director of the Division.

**“EPA”** means the United States Environmental Protection Agency.

**“Equipment”** means any device, except equipment used for any mode of vehicular transportation, capable of causing the emission of an air contaminant into the open air, and any stack, conduit, flue, duct, vent, or similar device connected or attached to, or serving the equipment.

**“Fuel burning equipment”** means equipment for which the primary purpose is the production of thermal energy from the combustion of fuel by indirect heat transfer.

**“Flue” or “stack”** means any point in a stationary source designed to emit solids, liquids, or gases into the air, including a pipe or duct, but not including flares.

**“Fugitive emissions”** means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

**“Garbage”** means rejected food waste including waste accumulation of animal, fruit, or vegetable matter that is used or that is intended to be used as food or that attend the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit, or vegetable.

**“Hazardous air pollutant”** means any air contaminant listed pursuant to § 112 of the Clean Air Act as of the effective date of this Rule.

**“Incinerator”** means all devices that reduce garbage, refuse, or other combustible material in volume by a combustion process in which the fuel/air ratio is or can be controlled so that the remaining solid residues contain little or no combustible material.

**“National ambient air quality standards”** shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “national ambient air quality standards” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“Opacity”** means the degree to which air contaminant emissions reduce the transmission of light and obscure the view of an object in the background.

**“Open burning”** means a fire in which a material is burned in the open or in a receptacle having no means for significantly controlling the fuel/air ratio.

**“Operator”** means any person who leases, operates, controls, or supervises any equipment affected by Rule 18.

**“Owner”** means any person who has legal or equitable title to any source, facility, or equipment affected by Rule 18.

**“Particulate matter”** means any airborne finely divided solid or liquid material with an aerodynamic diameter equal to or less than one hundred (100) micrometers.

**“Permittee”** means the person, persons, firm, corporation, or entity that has been issued a permit pursuant to Rule 18.

“**PM2.5”**shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “PM2.5” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“PM10”** shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “PM10” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“PM2.5 emissions”** shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “PM2.5 emissions” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“PM10 emissions”** shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “PM10 emissions” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“Potential to emit”** means the maximum capacity of a stationary source to emit an air contaminant under its physical and operational design.

(A) Any physical or operational limitation on the capacity of the source to emit an air contaminant, including, but not limited to, air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed. These restrictions shall be treated as part of stationary source’s design only if the limitation or the effect it would have on emissions is practically enforceable.

(B) Secondary emissions do not count in determining the potential to emit of a stationary source.

**“Refuse”** means any combustible waste material containing carbon in a free or combined state, other than liquid or gases.

**“Responsible Official”** shall have the same meaning as set forth in Chapter 2 of Rule 19. The definition of the term “Responsible Official” in Chapter 2 of Rule 19 is hereby incorporated by reference.

**“Rule 8”** means Arkansas Pollution Control and Ecology Commission Regulation No. 8 until it is amended to replace the term “regulation” with “rule.” After that time, Rule 8 means Arkansas Pollution Control and Ecology Commission Rule 8.

**“Rule 9”** means Arkansas Pollution Control and Ecology Commission Regulation No. 9 until it is amended to replace the term “regulation” with “rule.” After that time, Rule 9 means Arkansas Pollution Control and Ecology Commission Rule 9.

**“Rule 19”** means Arkansas Pollution Control and Ecology Commission Regulation No. 19, until it is amended to replace the term “regulation” with “rule.” After that time, Rule 19 means Arkansas Pollution Control and Ecology Commission Rule 19.

**“Rule 26”** means Arkansas Pollution Control and Ecology Commission Regulation No. 26, until it is amended to replace the term “regulation” with “rule.” After that time, Rule 26 means Arkansas Pollution Control and Ecology Commission Rule 26.

**“Salvage”** means an operation conducted in whole or in part for the reclaiming of any product or
material.

“**Secondary emissions**” means those emissions of air contaminants that, although associated with a stationary source, the stationary source itself does not emit.

**“Shutdown”** means the cessation of operation of equipment.

**“Startup”** means the setting in operating of equipment.

**“Stationary source”** means any building, structure, facility, or installation that emits or may emit any air contaminant.

**“Title I modification**” means any modification as defined under any rule promulgated pursuant to Title I of the Clean Air Act.

**“Trade secret”** means information, including a formula, pattern, compilation, program, device, method, technique, or process:

(A) From which the applicant derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(B) That is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

**“Trade waste”** means any solid, liquid, or gaseous material resulting from construction of the prosecution of any business, trade or industry, or any demolition operation including, but not
limited to, plastics, cardboard cartons, grease, oil, chemicals, and cinders.

“**Twelve-month period**” means a period of twelve (12) consecutive months determined on a rolling basis with a new twelve-month period beginning on the first day of each calendar month.

CHAPTER 3: PERMITS

Rule 18.301 Applicability

(A) General Applicability

A person shall not cause or allow the operation, construction, or modification of a stationary source without first obtaining a permit from the Division if the stationary source actually emits:

(1) Seventy-five (75) tons per year or more of carbon monoxide;

(2) Forty (40) tons per year or more of nitrogen oxides;

(3) Forty (40) tons per year or more of sulfur dioxide;

(4) Forty (40) tons per year or more of volatile organic compounds;

(5) Twenty-five (25) tons per year or more of particulate matter;

(6) Ten (10) tons per year or more of direct PM2.5;

(7) Fifteen (15) tons per year or more of PM10;

(8) One-half (0.5) ton per year or more of lead;

(9) Two (2) tons per year or more of any single hazardous air pollutant;

(10) Five (5) tons per year or more of any combination of hazardous air pollutants; or

(11) Twenty-five (25) tons per year or more of any other air contaminant.

(B)Special Applicability

Except as provided for by law, the following stationary sources are required to obtain a permit under this Chapter regardless of emissions:

(1) Any stationary source that the Director determines should obtain a permit in order to protect the public health and welfare or to assist in the abatement or control of air pollution; or

(2) Any class of stationary sources for which the Director has determined that the intrinsic nature of the stationary source’s operation and/or actual emissions indicates that a permit is necessary for the protection of public health and welfare or to assist in the abatement or control of air pollution. The stationary sources classes include, but are not limited to:

(a) Medical waste incinerators;

(b) Rendering plants;

(c) Pathological waste incinerators, including crematories;

(d) Chemical process plants;

(e) Hazardous waste treatment storage or disposal facilities;

(f) Sour gas process plants;

(g) Lead acid battery recycling facilities; or

(h) Charcoal plants.

(3) Any stationary source subject to the requirements of a rule promulgated under 40 C.F.R. Part 60, Part 61, or Part 63, as of June 27, 2008, except for:

(a) 40 C.F.R. Part 60, Subpart AAA (Wood Stoves);

(b) 40 C.F.R. Part 60, Subpart JJJ (Petroleum Dry Cleaners);

(c) 40 C.F.R. Part 63, Subpart M (Perchloroethylene Dry Cleaners);

(d) 40 C.F.R. Part 63, Subpart Q (Industrial Cooling Towers);

(e) Sources subject to 40 C.F.R. Part 60, Subpart Dc (Steam Generating Units) which only burn gas;

(f) 40 C.F.R. Part 63, Subpart ZZZZ (Stationary Reciprocating Internal Combustion Engines) for non-Part 70 sources (minor sources);

(g) 40 C.F.R. Part 63, Subpart WWWWW (Hospital Ethylene Oxide Sterilizers);

(h) 40 C.F.R. Part 63, Subpart CCCCCC (Gasoline Dispensing Facilities);

(i) 40 C.F.R. Part 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines) for engines with a displacement of less than 30 liters per cylinder;

(j) 40 C.F.R. Part 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines);

(k) 40 C.F.R. Part 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources);

(l) 40 C.F.R. Part 63, Subpart BBBBBB (National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities with a throughput less than 20,000 gallons per day of gasoline); and

(m) 40 C.F.R. Part 63, Subpart OOOOOO (National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources).

Rule 18.302 Approval Criteria

The Division shall not grant or modify a permit under this Chapter unless the owner or operator demonstrates to the reasonable satisfaction of the Division that the stationary source will be constructed or modified to operate without resulting in a violation of applicable portions of this Rule and without causing air pollution.

Rule 18.303 Owner/Operator's Responsibilities

Issuance of a permit by the Division does not affect the responsibility of the owner or operator to comply with applicable portions of this Rule.

Rule 18.304 Required Information

(A)General

Application for a permit shall be made on Division forms and contain information as the Division may reasonably require, including, but not limited to:

(1) Information on the nature and amounts of air contaminants to be emitted by the stationary source;

(2) Information on the location, design, and operation of stationary source as the Division may reasonably require; and

(3) Information on the nature and amounts of air contaminants to be emitted by mobile sources associated with the stationary source.

(B)Duty to Supplement Submittal

If, while processing an application that has been determined to be complete, the Division determines that additional information is necessary to evaluate or take final action on that application, the Division may request the information in writing and set a reasonable deadline for a response.

(C)Duty to Correct Submittal

Any applicant who fails to submit any relevant facts or who has submitted incorrect information, shall, upon becoming aware of the failure or incorrect submittal, promptly submit the supplementary facts or corrected information. In addition, the applicant shall provide additional information as necessary to address any relevant requirements that become applicable to the stationary source before the Division takes final action on application.

Rule 18.305 Action on Application

(A)Technical Review

The Division will review the application submitted under this Chapter in order to ensure to its reasonable satisfaction that:

(1) The stationary source will be constructed or modified to operate without interfering with attainment or maintenance of a national ambient air quality standard;

(2) The stationary source will be constructed or modified to operate without violating any applicable regulation adopted by the EPA pursuant to §§ 111, 112, and 114 of the Clean Air Act;

(3) The stationary source will be constructed or modified to operate without causing air pollution;

(4) The stationary source will be constructed or modified to incorporate the appropriate control technology, if any, developed for the kind and amount of air contaminant emitted by the stationary source;

(5) The stationary source will be constructed or modified to operate without resulting in a violation of any applicable provisions of Rule 18;

(6) The emission rate calculations are complete and accurate; and

(7) If the applicant wishes to measure and/or monitor operating parameters rather than actual emissions, the application describes a process that will be used to ensure that the calculations are translated into enforceable limits on operational parameters rather than emissions.

(B)Proposed Action

(1) If the Division initially determines that the requirements of Rule 18.304(A) are met, then it shall prepare a draft permit which:

(a) Contains conditions as the Division may prescribe, to prevent, control, or abate air pollution;

(b) Addresses all recognized air contaminant emissions and all air contaminant emitting equipment at the stationary source except air contaminants or equipment specifically exempt;

(2) If the Division initially determines the requirements of this Chapter are not met, it shall prepare a notice of intent to deny. The Division shall state in the notice the reasons for the denial of the applicant’s submittal.

(3) The public shall have an opportunity to comment on the Division’s proposed permit decision in accordance with Rule 18.305.

(C)Final Action

At the conclusion of the public comment period, the Division shall announce in writing its final permit decision.

Rule 18.306 Public Participation

Information on applications received, draft permits, and final permits shall be made available to the public in accordance with Rule 8, Chapter 2 Permits.

Rule 18.307 Permit Amendments

(A)Administrative Permit Amendments

(1) An administrative permit amendment is a permit revision that:

Corrects a typographical error;

Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the stationary source;

Requires more frequent monitoring or reporting by the permittee;

Incorporates a change in the permit involving the retiring of equipment or emission units, or the decrease of permitted emissions from equipment or emission units; or

Incorporates a change to the stationary source’s insignificant activities list.

(2) The Division shall revise the permit as practicable and may incorporate such revisions without providing notice to the public.

(3) The permittee may implement the changes addressed in the request for an administrative amendment immediately upon approval.

(B)Change in Ownership

(1) Permits issued under Rule 18 shall remain freely transferable if the applicant for the transfer:

(a) Notifies the Director at least thirty (30) days in advance of the proposed transfer date on the forms as the Director may reasonably require; and

(b) Submits a written disclosure statement in accordance with Rule 8, or other documents as required by the Division.

(2) The Director may deny the issuance or transfer of any permit, license, certification, or operational authority if he or she finds, based upon the disclosure statement and other investigation that he or she deems appropriate, if:

(a) The applicant has a history of noncompliance with the environmental laws or regulations of this State or any other jurisdiction;

(b) The applicant owns or operates other facilities in the state that are not in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, the environmental laws or rules of this State; or

(c) A person with a history of noncompliance with environmental laws or rules of this State or any other jurisdiction is affiliated with the applicant to the extent of being capable of significantly influencing the practices or operations of the applicant that could have an impact upon the environment.

(3) Public notice requirements shall not apply to changes in ownership or changes in name.

(C)*De Minimis* Changes

(1) A proposed change to a stationary source will be considered *De Minimis* if:

* 1. Minimal judgment is required to establish the permit requirements for the change; and
	2. The change will result in a trivial environmental impact.

(2) The environmental impact of a proposed change generally will be considered trivial if the emission increase, based on the differences between the sum of the proposed permitted rates for all emission units and the sum of previously permitted emission rates for all units, will either:

(a) Be less than the following amounts:

1. Seventy-five (75) tons per year of carbon monoxide;
2. Forty (40) tons per year of nitrogen dioxide, sulfur dioxide, or volatile organic compounds;
3. One-half (0.5) ton per year of lead;
4. Twenty-five (25) tons per year of particulate matter;
5. Ten (10) tons per year of direct PM2.5; and

(vi) Fifteen (15) tons per year of PM10 emissions; or,

(b) Result in an air quality impact less than:

|  |  |  |
| --- | --- | --- |
| Air Contaminant | *De Minimis* Concentration | Averaging Time |
| carbon monoxide | Five hundred (500) micrograms per cubic meter (*µ*g/m3) |  Eight-hour |
| nitrogen dioxide | Ten (10) micrograms per cubic meter (*µ*g/m3) |  Annual |

|  |  |  |
| --- | --- | --- |
| PM2.5 | Two (2) micrograms per cubic meter (*µ*g/m3) | Twenty-four-hour |
| PM10 | Eight (8) micrograms per cubic meter (*µ*g/m3) | Twenty-four-hour |
| sulfur dioxide | 18 *µ*g/m3 | Twenty-four-hour |
| lead | One-tenth (0.1) micrograms per cubic meter (*µ*g/m3) | Three-month |

(3) The following changes will not be considered *De Minimis* changes:

(a) Any increase in the permitted emission rate at a stationary source without a corresponding physical change or change in the method of operation at the stationary source;

(b) Any change that would result in a violation of the Clean Air Act;

(c) Any change seeking to change a case-by-case determination of an emission limitation established pursuant to Best Available Control Technology, §§ 112(g), 112(i)(5), 112(j), or 111(d) of the Clean Air Act;

(d) A change that would result in a violation of any provision of this Rule;

(e) Any change in a permit term, condition, or limit that the permittee of a stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject;

(f) Any significant change or relaxation to existing testing, monitoring, reporting, or recordkeeping requirements; or

(g) Any proposed change that requires more than minimal judgment to determine eligibility.

(4) The owner operator of a source may not submit multiple applications for *De Minimis* changes that are designed to conceal a larger modification that would not be considered a *De Minimis* change. The Division will require such multiple applications be processed as a permit modification with public notice and reconstruction requirements. Deliberate misrepresentation may be grounds for permit revocation.

(5) The permittee may implement *De Minimis* changes immediately upon approval by the Division.

(6) The Division shall revise the permit as practicable and may incorporate *De Minimis* changes without providing notice to the public.

(D) Changes to permit requirements pursuant to Rule 18, administrative permit amendments, changes in ownership, and *De Minimis* changes are not Title I modifications.

(E) Any changes that do not qualify as an administrative permit amendment pursuant to Rule 18.307(A), a change in ownership pursuant to Rule 18.307(B), or a *De Minimis* change pursuant to Rule 18.308(C) shall be processed in accordance with the procedures of Rule 18.305.

Rule 18.308 Exemption from Permitting

(A) Insignificant Activities

The Division shall consider stationary sources and activities listed in Appendix A of this Rule to be insignificant. These stationary sources and activities do not require a permit under this Chapter and are not required to be included in a stationary source’s permit.

(B) Grandfathering

Stationary sources operating prior to July 30, 1969 that have not been modified since are not required to obtain a permit under this Chapter.

(C) Rule 26 Stationary Sources

A stationary source subject to the permitting requirements of Rule 26 and the requirements of this Chapter will only be required to obtain one permit, which shall also contain the requirements unique to Rule 18.

(D) Rule 19 Stationary Sources

A stationary source subject to the permitting requirements of Rule 19 and the requirements of this Chapter will only be required to obtain one permit, which shall also contain the requirements unique to Rule 18.

Rule 18.309 Permit Revocation and Cancellation

(A) Revocation

Any permit issued under Rule 18 is subject to revocation, suspension, or modification in whole or in part, for cause, including without limitation:

(1) Violation of any condition of the permit;

(2) Obtaining a permit by misrepresentation of failure to disclose fully all relevant facts; or

(3) Change in any applicable rule or change in any pre-existing condition affecting the nature of the emission that requires either a temporary or permanent reduction or elimination of the permitted emission.

(B) Cancellation

The Director may cancel a permit if the construction or modification is not begun within eighteen (18) months from the date of the permit issuance or if the work involved in the construction or modification is suspended for a total of eighteen (18) months or more.

Rule 18.310 General Permits

(A) General Authority

The Division may, after notice and opportunity for public participation provided under this Chapter, issue a general permit covering numerous similar stationary sources. Any general permit shall include all requirements applicable to other permits and shall identify criteria by which sources may qualify for the general permit. To the owner or operator of stationary sources that qualify, the Division shall grant the conditions and terms of the general permit. The owner or operator of the stationary source shall be subject to enforcement action for operation without a permit if the stationary source is later determined not to qualify for the conditions and terms of the general permit.

(B) Application

The owner or operator of stationary sources that would qualify for a general permit must apply to the Division for coverage under the terms of the general permit or must apply for a permit consistent with this Chapter. The Division may grant a request for authorization to operate under a general permit, but the grant shall not be a final permit action for purposes of judicial review. The Division will give notice of all applications for general permits pursuant to Ark. Code Ann. § 8-4-203(c).

Rule 18.311 [RESERVED]

Rule 18.312 Operational Flexibility-Applicant's Duty to Apply for Alternative Scenarios

It is incumbent upon the permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of permit application. The Division shall include approved alternative operating scenarios in the permit. The permittee may implement any operating scenario allowed in a permit without the need for any permit revision or notification to the Division.

Rule 18.313 Changes Resulting in No Emissions Increases

(A) A permittee may make a change at a permitted stationary source that contravenes permit terms without a permit revision if the change:

(1) Is not a Title I modification;

(2) Does not exceed emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions);

(3) Does not violate applicable requirements; and

(4) Does not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;

(B) The permittee shall provide written notice to the Division at least seven (7) days in advance, or within a shorter time frame as the Division may allow for emergencies. The permittee shall attach each notice to their copy of the relevant permit. For each change, the written notice required above shall include a brief description of the change within the permitted stationary source, the date that the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

Rule 18.314 Permit Flexibility

(A) The Division may grant an extension to any testing, compliance, or other date in the permit. No extensions shall be authorized until the permittee of the stationary source receives written approval from the Division. The Division may grant a request, at its discretion, in the following circumstances:

(1) The permittee of the stationary source makes the request in writing at least fifteen (15) days in advance of the deadline specified in the stationary source’s permit;

(2) The extension does not violate a federal requirement;

(3) The permittee of the stationary source demonstrates the need for the extension; and

(4) The permittee of the stationary source documents that all reasonable measures have been taken to meet the current deadline and documents reasons the current deadline cannot be met.

(B) The Division may grant a request to allow temporary emissions and/or testing that would otherwise exceed a permitted emission rate, throughput requirement, or other limit in a stationary source’s permit. Requested activities shall not be authorized until the permittee of the stationary source receives written approval from the Division. The Division may grant the request, at its discretion, in the following circumstances:

(1) The permittee of the stationary source makes the request in writing at least thirty (30) days in advance of the date that temporary emissions and/or testing that would otherwise exceed a permitted emission rate, throughput requirement or other limit in a stationary source’s permit;

(2) The request does not violate a federal requirement;

(3) The request is temporary in nature;

(4) The request will not result in a condition of air pollution;

(5) The request contains the information necessary for the Division to evaluate the request, including, but not limited to, quantification of the emissions and the date and time the emissions will occur;

(6) The request will result in increased emissions less than five (5) tons of any individual criteria pollutant, one ton of any single hazardous air pollutant, and two and one-half (2.5) tons of total hazardous air pollutants; and

(7) The permittee of the stationary source maintains records of the dates and results of the temporary emissions and/or testing.

(C) The Division may grant a request to allow an alternative to the monitoring requirements specified in a stationary source’s permit. These activities shall not be authorized until the permittee of the stationary source receives written approval from the Division. The Division may grant such a request, at its discretion, in the following circumstances:

(1) The permittee of the stationary source makes the request in writing at least thirty (30) days in advance of the first date that the monitoring alternative will be used at the stationary source;

(2) The request does not violate a federal requirement;

(3) The monitoring alternative provides an equivalent or greater degree of actual monitoring to the requirements in the stationary source’s permit; and

(4) Any request, if approved by the Division, is incorporated into the next permit modification application by the permittee of the stationary source.

Rule 18.315 Registration

(A) A person shall not cause or allow the operation, construction, or modification of a stationary source without registering the stationary source with the Division if the actual emissions of that stationary source are:

(1) Forty (40) tons per year or more, but less than seventy-five (75) tons per year of carbon monoxide;

(2) Twenty-five (25) tons per year or more but less than forty (40) tons per year of nitrogen oxides;

(3) Twenty-five (25) tons per year or more but less than forty (40) tons per year of sulfur dioxide;

(4) Twenty-five (25) tons per year or more but less than forty (40) tons per year of volatile organic compounds;

(5) Fifteen (15) tons per year or more but less than twenty-five (25) tons per year of particulate matter;

(6) Ten (10) tons per year or more but less than fifteen (15) tons per year of PM10;

(7) One (1) ton per year or more but less than two (2) tons per year of any single hazardous air pollutant; or

(8) Three (3) tons per year or more but less than five (5) tons per year of an combination of hazardous air pollutants

(B) For the purpose of Rule 18.315(A) “modification” shall mean any physical change in or change in the method of operation of a stationary source that increases the emission rates of any air contaminant, specified above, previously registered with the Division or results in the emission of an air contaminant not previously emitted and registered with the Division.

(C) The registration shall be made on forms and contain information as the Division may reasonably require, including, but not limited to:

(1) The name and address of the stationary source;

(2) An estimate of emissions from the stationary source; and

(3) An explanation of how the emissions estimate was determined.

(D) Registration does not affect the responsibility of the owner or operator to comply with applicable portions of Rule 18.

(E) The owner or operator may construct, operate, or modify a stationary source subject to registration under this section immediately upon submittal of the registration.

(F) The owner or operator of a stationary source registered under this section shall pay an annual fee of $200. The requirements of Chapter 3 (Permit Fee Payment) of Rule 9 shall apply to fees collected under this section.

(G) The owner or operator of a stationary source currently holding a permit for a stationary source with actual emissions that fall within the ranges specified under Rule 18.315(A) may elect to continue to operate under their existing permit or they may submit a registration and request that the Division void the permit. The permit shall remain in effect until voided. If the owner or operator of a stationary source takes no action, the permit will remain in effect.

(H) The owner or operator of a stationary source otherwise required to be registered under this section may instead choose to operate under a permit issued in accordance with Rule 18.302.

CHAPTER 4: [RESERVED]

CHAPTER 5: VISIBLE EMISSIONS

Rule 18.501 Visible Emissions Limitations

(A) A person shall not cause or allow visible emissions (other than uncombined water vapor) from equipment to exceed the limitations of this section except as specifically provided by Rule 18. In determining the emissions of a source for the purposes of demonstrating air pollution will not occur, the Division shall take into account any incremental increase in allowable emissions under these conditions.

(1) For equipment installed on or before January 30, 1972, emissions shall not exceed forty percent (40%) opacity, except that emissions greater than forty percent (40%) opacity will be allowed for not more than six (6) minutes in the aggregate in any consecutive sixty-minute period, if the emissions will not be permitted more than three (3) times during any twenty-four-hour period.

(2) For equipment installed or modified after January 30, 1972, emissions shall not exceed an opacity greater than twenty percent (20%) except as described in Rule 18.501(A)(3) below.

(3) For wood-fired, coal-fired, or oil-fired boilers installed or modified after January 30, 1972, emissions greater than twenty percent (20%) opacity but not exceeding sixty percent (60%) will be allowed for not more than six (6) minutes in the aggregate in any consecutive sixty-minute period, if the emissions will not occur more than three (3) times during any twenty-four-hour period.

(4) Wood-fired boilers shall meet all visible emissions of this Chapter except that visible emissions may exceed the permitted opacity for up to forty-five (45) minutes once in any consecutive eight-hour period, three (3) times in any consecutive twenty-four-hour period for soot blowing, grate cleaning, ash raking, and refiring necessary for proper operation of these units. This practice shall be scheduled for the same specific time each day and shall be recorded. The Division shall be notified in advance and in writing of the schedule or any changes. The process of soot blowing, grate cleaning, ash raking, and refiring or any part thereof is considered one activity and the time limit on this activity is forty-five (45) minutes.

(B) Opacity of visible emissions shall be determined using EPA Method 9 (40 C.F.R. Part 60, Appendix A).

(C) The Division may impose more stringent limitations on individual pieces of equipment due to control requirements or control apparatus, corresponding emissions limitations, and/or applicable national standards.

(D) The emission limitations of this section shall not apply to the following conditions and activities:

(1) The start-up of a new fire in an incinerator used exclusively for the disposal of wood waste or the waste from cotton gins if start-up does not exceed thirty (30) minutes and if there is only one start-up per day;

(2) The application of fertilizers, pesticides, and defoliants;

(3) The use of mobile and portable equipment in the clearing, grading, or plowing of land;

(4) The application of base or surface materials to roads, runways, parking lots, and similar facilities;

(5) The use of agricultural equipment in the planting, cultivating, or harvesting of crops, or in the feeding of animals or fowls;

(6) The non-commercial preparation of food and to the use of outdoor fireplaces used in connection with any residence;

(7) The use of incinerators and heating equipment used in connection with residences used exclusively as dwellings for not more than four (4) families; and

(8) The use of portable incinerators used for the disposal of debris from demolition and land clearing operations.

(E) Petitions for Less Stringent Emissions Limitations

(1) The owner or operator of equipment may petition the Director for an emission limitation less stringent than that provided in Rule 18.501(A) if:

(a) The petition is filed not more than six (6) months after commencement of operation of equipment for which a permit has been issued by the Director; and

(b) The equipment is in compliance with all provisions of Rule 18 except those of Rule 18.501(A).

(2) Any petition under Rule 18.501(E) shall contain information as the Director may reasonably require.

(3) Upon review of the petition and any other evidence, the Director may require additional information; grant the relief sought in the petition; or establish an emission limitation other than that sought by the petitioner; if the Director affirmatively finds full compliance with all other provisions of this Chapter, and that full compliance with provisions of this section is technically or economically infeasible. The Division shall notify the petitioner of the Director’s decision within a reasonable time.

CHAPTER 6: EMISSIONS FROM OPEN BURNING

Rule 18.601 [RESERVED]

Rule 18.602 General Prohibitions

(A) A person shall not cause or allow the open burning of refuse, garbage, trade waste, or other waste material.

(B) A person shall not conduct a salvage operation by open burning.

Rule 18.603 Exemptions

The provisions of Rule 18.602 herein shall not apply to the following activities:

(A) Fires used for the non-commercial cooking of food or for ceremonial or recreational purposes, including barbecues and outdoor fireplaces used in connection with any residence;

(B) Open burning related to agricultural activities including, but not limited to, clearing previously uncultivated lands and burning of stubble and other debris on previously harvested fields. This exemption shall not be extended to:

(1) The disposal, by open burning, of waste products generated by cotton gins, or similar equipment used in a manufacturing process; or

(2) The disposal by open burning of fowls or animals;

(C) Controlled fires used for purposes of forest and wildlife management, if the fires are used and the burning occurs when winds are blowing away from populated areas that might be affected;

(D) Controlled fires used only for purposes of on-site land clearing operations;

(E) Smokeless flares or safety flares from the combustion of waste gases, if the operator of the flare complies with all other applicable provisions of Rule 18;

(F) Open burning of the site or origin of waste hydrocarbon products from oil exploration, development, or production, or from natural gas processing plants, or from materials spilled or lost from pipeline breaks, if, because of the isolated location, the waste products cannot be reclaimed, recovered, or disposed of lawfully in any other manner;

(G) Fires set or authorized by any public officer, board, council, or commission if the fire is set or permission to burn is given in the performance of the duty of the officer for the purpose of weed abatement, or the prevention or elimination of a fire hazard; or fires set for the purposes of the instruction in methods of firefighting or for civil defense instruction;

(H) Open burning related to on-site clean-up operations resulting from transportation accidents if, because of the isolated location, the material to be burned cannot be reclaimed or recovered, or if there is no other practical, safe, or lawful method of disposal; if:

(1) The Director shall be notified of the exact location, and the nature and quantities of materials to be burned prior to ignition;

(2) The Director approves in writing of the burning. In case of emergency, the Director may choose to deliver approval by telephone and later confirm the approval in writing; and

(3) The burning is conducted in accordance with the written approval of the Director.

(I) Open burning of any material not elsewhere specifically prohibited or exempted in this Chapter and for which there is no practical, safe, or lawful means of disposal; except that no person shall cause or allow open burning without first obtaining a letter of authorization for open burning from the Director in accordance with the provisions as set forth in Rule 18.605.

Rule 18.604 Conditions of Air Pollution

During conditions of air pollution, when declared by the Director to exist in any area of the State, all open burning in the area that otherwise is exempted under Rule 18.603, shall be discontinued as set forth herein, except as specifically provided in the Director’s public announcements.

(A) During conditions of air pollution, open burning as provided in Rule 18.603(B), (C), (F), and (H) shall be discontinued until the Director declares that the conditions of air pollution have ceased to exist. The Division may limit the scope of the discontinuance to one or more of the activities as provided in Rule 18.603(B), (C), (F), and (H) if it finds that the conditions of air pollution are primarily caused by the activity.

(B) During conditions of episodic air pollution, open burning as provided in Rule 18.603(B), (C), (F), and (G) shall be discontinued upon public announcement by the Director, until the Director declares that the conditions have ceased to exist. The Director may limit the scope of the discontinuance to one or more of the activities if he or she finds that the conditions of air pollution are caused primarily by the activity.

(C) The Director may allow open burning during the existence of a condition of air pollution under conditions described in Rule 18.603(F), (G), and (H) if the Director, after consultation with public safety officials in the locality in question, determines that the open burning is absolutely necessary, in the Director’s opinion, to prevent danger to life or property.

(D) The statutory authority of the Division to grant variances and permits is in no way limited by this Chapter.

Rule 18.605 Open Burning Authorizations

(A) Upon application, the Division shall issue letters of authorization for open burning if:

(1) The applicant affirmatively demonstrates to the satisfaction of the Division that there are no practicable, safe, and lawful alternative methods of disposal;

(2) That open burning is absolutely necessary and in the public interest; and

(3) Provided that the applications contain any other information as the Division may reasonably require.

(B) Only letters of authorization issued by the Division satisfy the requirements of this Chapter. Local public officers, boards, councils, or commissions may also require open burning permits for safety or other purposes; however, those permits do not satisfy the requirement to obtain an authorization under this Chapter.

Rule 18.606 Open Burning of Storm Debris

(A) Unless otherwise prohibited by federal law, a county may conduct open burning to dispose of vegetative storm debris under the procedures, requirements, and limitations of this section if the county has:

(1) Been declared a disaster area by:

(a) The county under Ark. Code Ann. § 12-75-108;

(b) The State under Ark. Code Ann. § 12-75-107; or

(c) Federal authorities authorized under federal law to make the declaration; or;

(2) Otherwise accumulated substantial vegetative storm debris and provided written notice to the Division of the accumulation.

(B) A county shall only burn vegetative storm debris at a site that has been pre-assessed by the Division to determine that the site is consistent with all State and federal laws and rules.

(C) A county that engages in open burning of vegetative storm debris at a site that has been pre-assessed by the Division shall comply with Rule 18.606 and the procedures established by the Director.

(D) A county may burn vegetative storm debris at no more than four (4) sites at one (1) time unless the Director determines that additional open burning sites are necessary.

(E) At least three (3) days before the commencement of open burning of vegetative storm debris, the county shall provide written notification to the Director that certifies the pre-assessed site satisfies the requirements of all applicable laws and rules, unless notification is waived by the Director.

(F) Open burning under Rule 18.606 shall:

 (1) Be performed only during daylight hours on business days;

(2) Be completed within one hundred twenty (120) days after the written notice or disaster declaration under Rule 18.606(A) unless the Director grants an extension;

(3) Be conducted in a manner so as not to create a nuisance to the surrounding communities;

(4) Be conducted only if:

(a) The county is in attainment with all national ambient air quality standards;

(b) A burn ban is not in effect for the county; and

(c) Adequate firefighting personnel are available to respond to an emergency at a designated open burning site;

(5) Comply with all other applicable state, federal, or local statutes, rules, ordinances, and orders; and

(6) Be conducted no more than two (2) times per calendar year if the county has not been declared a disaster area under Rule 18.606(A)(1).

CHAPTER 7: EMISSIONS OF AIR CONTAMINANTS FROM MOBILE EQUIPMENT

Rule 18.701 Emissions from Mobile Equipment

(A) Any person owning or operating a motor vehicle including, but not limited to automobiles and trucks, incorporating a system for the control or emissions from the crankcase or exhaust system, or for the control or evaporative emissions, shall maintain the system in good operable condition and shall use it at all times that the vehicle is operated. The operator of the vehicle shall not intentionally make the system inoperable and shall not remove it except to install a proper replacement.

(B) A person shall not cause or allow the emission of an air contaminant from a motor vehicle including, but not limited to, automobiles and trucks, of a density exceeding thirty percent (30%) opacity, except during acceleration and gear shifting for periods not to exceed five (5) seconds. Rule 18.701(B) shall not apply if the only reason for failure to comply with Rule 18.701(B) is the presence of uncombined.

(C) Railroad locomotives shall be maintained and operated such as to minimize visible emissions.

(D) This Chapter shall not apply to the motor exhaust of tractors, graders, earthmovers, or other mobile and portable equipment used exclusively in land clearing, agricultural, or road building operations. The prime movers used for the transportation of the portable and mobile equipment shall not be exempt.

CHAPTER 8: EMISSION OF AIR CONTAMINANTS SUCH AS TO CONSTITUTE AIR POLLUTION

Rule 18.801 Prohibition of the Emission of Air Contaminants Such as to Constitute Air Pollution

A person shall not cause or allow the emission of air contaminants, odors indicative of the release of an air contaminant, or water vapor if the emission constitutes air pollution.

CHAPTER 9: CONTROL OF FUGITIVE EMISSIONS

Rule 18.901 Prohibitions

(A) A person shall not cause or allow the handling, transporting, or storage of any material in a manner that allows or may allow unnecessary amounts of air contaminants to become airborne.

(B) A person shall not cause or allow any building or its appurtenances to be constructed, altered, used, repaired, or demolished without applying all reasonable measures as may be required to prevent unnecessary amounts of particulate matter from becoming airborne.

CHAPTER 10: SAMPLING, MONITORING, AND REPORTING REQUIREMENTS

Rule 18.1001 Purpose

This Chapter generally defines the powers of the Division in requiring sampling, monitoring, and reporting requirements at stationary sources. The Division shall enforce all properly incorporated and delegated federal testing requirements at a minimum, and the Division reserves the right to require additional sampling, monitoring, and reporting requirements not already required in federal regulations. The Division may use any credible evidence based on sampling, monitoring, and reporting to determine violations of applicable emission limitations.

Rule 18.1002 Air Contaminant Emissions Sampling

Any stationary source subject to permitting under Rule 18 shall be subject to the following requirements:

(A) Sampling Ports

The permittee shall make available any sampling ports, at the request of the Division, required for air contaminant emissions sampling, including safe and easy access to such ports.

(B) Sampling

The permittee shall conduct air contaminant emissions sampling, at the request of the Division, to determine the rate, opacity, composition, and/or contaminant concentration of the emissions.

(1) The permittee shall contract, at the permittee’s expense, an independent firm to conduct any compliance testing unless otherwise approved by the Division.

(2) Sampling shall not be required for those air contaminants monitored with continuous emissions monitors.

(C) Averaging Times

All compliance testing averaging times shall be consistent with the averaging times of the applicable emissions limitations stated in the applicable permit, which in no case shall be greater than the minimum averaging times of the applicable national ambient air quality standard.

(D) Process Rates

Unless otherwise approved by the Division, the permittee shall perform all air contaminant emissions sampling with the equipment being tested operating at least at ninety percent (90%) of its permitted capacity. Emissions results shall be extrapolated to correlate with one hundred percent (100%) of permitted capacity to determine compliance.

(E) Testing Time Frames

The permittee shall test any equipment subject to testing at the request of the Division, in accordance with the following time frames:

(1) Equipment to be constructed or modified shall be tested within sixty (60) days after achieving its maximum permitted production rate, but no later than one hundred and eighty (180) days after its initial start-up.

(2) Equipment already operating shall be tested according to the time frames set forth by the Division.

(F) Testing Methods and Records

Except as provided in Rule 18.1002(F)(1), the Division shall require that all applicable testing be performed using the methods described in 40 C.F.R. Part 51, Appendix M, 40 C.F.R. Part 60, Appendix A, 40 C.F.R. Part 61, Appendix B, and 40 C.F.R. Part 63, Appendix A.

(1) The Division may approve, at its discretion, alternative sampling methods that are equivalent to the specified methods.

(2) The permittee shall submit the results of the tests to the Division within the time frame and on forms required by the Division and federal regulations.

(3) The permittee shall retain the test results for at least five (5) years and shall make the results available to any agents of the Division or the EPA during regular business hours.

Rule 18.1003 Continuous Emissions Monitoring

The permittee of any stationary source subject to permitting under Rule 18 shall, upon request by the Division:

(A) Install, calibrate, operate, and maintain equipment or continuously monitor air contaminant emissions in accordance with applicable performance specifications in 40 C.F.R. Part 60, Appendix B, and quality assurance procedures in 40 C.F.R. Part 60, Appendix F, or other methods and conditions that the Division approves. Any source listed in a category in 40 C.F.R. Part 51, Appendix P as of December 8, 1986[[1]](#footnote-2) or 40 C.F.R. Part 60 shall adhere to all continuous emissions monitoring requirements stated therein, if applicable.

(B) Report the data collected by the monitoring equipment to the Division at intervals and on such forms as the Division shall prescribe, in accordance with 40 C.F.R. Part 51, Appendix P, Section 4.0 (Minimum Data Requirements), as of December 8, 1986[[2]](#footnote-3), and any other applicable reporting requirements promulgated by the EPA.

Rule 18.1004 Recordkeeping/Reporting Requirements

The permittee of any stationary source subject to permitting under Rule 18 shall, upon request of the Division:

(A) Maintain records on the nature and amounts of air contaminants emitted by the equipment at the stationary source.

(B) Retain all records, including compliance status records and excess emissions measurements, for at least five (5) years, and make available to any agent of the Division or the EPA during regular business hours. Reporting periods shall be a twelve-month period.

(C) Supply the following information, correlated in units of the applicable emissions limitations, to the Division:

(1) General process information related to the emissions of contaminants into the air; and

(2) Emissions data obtained through sampling or continuous emissions monitoring.

(D) A responsible official shall submit information and data to the Division on the forms and at time intervals as prescribed by applicable federal regulations or the Division.

Rule 18.1005 Public Availability of Emissions Data

Emissions data obtained by the Division shall be correlated in units of applicable emissions limitations and be made available to the public at the Division’s central offices on business days between 8:00 a.m. and 4:30 p.m. central time.

CHAPTER 11: STARTUP/SHUTDOWN, UPSET CONDITIONS, BREAKDOWNS, SCHEDULED MAINTENANCE, INTERRUPTION OF FUEL SUPPLY

Rule 18.1101 Upsets

Any source exceeding an emission limit established by Rule 18 or an applicable permit is in violation of Rule 18 or the permit and shall be subject to enforcement action. The Director may forego enforcement action for emissions exceeding any limits established by Rule 18 or the permit if:

(A) The emissions exceeding limits established by Rule 18 or the permit are a direct result of:

(1) Unavoidable upset conditions in the nature of the process;

(2) Unavoidable and unforeseeable breakdown of any air pollution control equipment or related operating equipment; or

(3) As a direct result of shutdown or start-up of the equipment for necessary scheduled maintenance; and

(B) The person or permittee responsible for the excess emissions took all reasonable measures to immediately minimize or eliminate the excess emissions;

(C) The person or permittee responsible for the excess emissions reported the occurrence to the Director by the end of the next business day after the occurrence.

(D) The person or permittee responsible for the excess emissions submits to the Director, at his or her request, a full report of the occurrence, including:

(1) A statement of all known causes; and

(2) The scheduling and nature of the actions to be taken to minimize or eliminate future occurrences, including, but not limited to, action to:

(a) Reduce the frequency of occurrence of the conditions;

(b) Minimize the amount by which the limits are exceeded; and

(c) Reduce the length of time for which the limits are exceeded; and

(E) In the case of a shutdown for necessary scheduled maintenance, the intent to shutdown shall be reported to the Director at least twenty-four hours prior to the shutdown. The exception provided by this subsection shall only apply in those cases where maximum reasonable effort has been made to accomplish the maintenance during periods of nonoperation of any related source operation or where it would be unreasonable or impossible to shut down the source operation during the maintenance period; and

(F) The person or permittee responsible for the excess emissions demonstrates to the satisfaction of the Division that the emissions resulted from:

(1) An equipment malfunction or upset condition that is not the result of negligence or improper maintenance; and

(2) Physical constraints on the ability of a source to comply with the emission standard, limitation, or rate during startup or shutdown.

Rule 18.1102 [RESERVED]

Rule 18.1103 [RESERVED]

Rule 18.1104 [RESERVED]

Rule 18.1105 Emergency Conditions

An “emergency” means any situation arising from the sudden and reasonably unforeseeable events beyond the control of the stationary source, including natural disasters, that requires immediate corrective action to restore normal operation, and that causes the stationary source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the upset condition. An emergency shall not include non**-**compliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(A) An emergency constitutes a complete affirmative defense to an action brought for non**-**compliance with technology-based limitations if the following conditions are met. The permittee shall demonstrate the affirmative defense of emergency through properly signed contemporaneous operating logs, or any other relevant evidence that:

(1) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(2) The permitted stationary source was at the time being properly operated;

(3) During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(4) The permittee submitted notice of the upset condition to the Division by the end of the next business day after the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(B) [RESERVED]

CHAPTER 12: CIRCUMVENTION

Rule 18.1201 Circumvention

Unless the Director provides prior written approval, a person shall not build, erect, install, or use any article, machine, equipment, or other contrivance if its sole purpose is to dilute or conceal an emission without resulting in a reduction of the total amount of air contaminants emitted to the atmosphere. This rule does not apply to the control of odors or to the installation of stacks for which a permit has been issued as provided in Chapter 3 of Rule 18.

CHAPTER 13: AUTHORITY TO DEAL WITH EXTRAORDINARY CONDITIONS

Rule 18.1301 Authority to Deal with Extraordinary Conditions

(A) Within areas of high source density or higher receptor density and/or within areas affected by levels of air contaminants, which, due to their intensity and/or duration, threaten to constitute a significant departure from the national ambient air quality standards, the Division may prescribe air quality control requirements that are more restrictive and more extensive than those provided in the rules of general application within said areas. The requirements may be kept in effect for a period and to the extent that the Division deems necessary to adequately deal with the conditions.

(B) If the Director finds the existence of a condition of air pollution or conditions of episodic air pollution pursuant to Rule 18.604 or the Division imposes extraordinary air quality control requirements pursuant to Rule 18.1301(A), the Director shall summarize the conditions and the actions taken in response thereto and shall make the summary available to the news media and to the public. The Director shall continue to publish the summaries at regular intervals throughout the duration of said conditions and actions.

Rule 18.1302 [RESERVED]

CHAPTER 14: CONFIDENTIALITY

Rule 18.1401 [RESERVED]

Rule 18.1402 Confidentiality

(A) Information that is submitted in accordance with this section and that constitutes a “Trade Secret” shall be held confidential and segregated from the public files of the Division.

(B) A person or permittee may apply to the Division for confidential treatment of information as a “Trade Secret” if the information meets the following requirements:

(1) The applicant derives independent economic value (actual or potential) from the information not being generally known to, and not being readily ascertainable through, proper means by other persons who can obtain economic value from its disclosure or use; and

(2) The information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy;

(3) The applicant submits a sworn affidavit to the Division that is subject to public scrutiny that describes in a manner that does not reveal trade secrets, the processes or market conditions that supports the applicant’s confidentiality claim in the terms of Rule 18.1402(B)(1) and (2).

(4) The affidavit submitted to the Division recites the following:

“The applicant agrees to act as an indispensable party and to exercise extraordinary diligence in any legal action arising from the Division’s denial of public access to the documents or information claimed herein to be a trade secret.”

(C) If an applicant anticipates numerous permit modifications that may involve regulatory review of trade secrets, the applicant may submit an omnibus affidavit establishing the prerequisites of Rule 18.1402(B)(1) and (2) and reference this document in future confidentiality claims.

(D) Confidentiality claims shall be afforded interim protected status until the Division determines whether the requirements of Rule 18.402(B) are satisfied. The Division shall make the determination prior to the issuance of any permit or publication of any draft permit, if the confidentiality claim is made for information in a permit application. If the Division does not make a determination prior to permit issuance, the information shall be deemed confidential until a request is made. If the Division receives a third party request to review information claimed as confidential before the Division provides its written determination concerning the claim, the Division shall not release the information before notifying the applicant of the request. The Division shall notify the applicant of the request and the Division’s determination on the confidentiality claim at least two (2) business days before releasing the information, at which time the applicant may choose to supplement its affidavit supporting confidentiality or seek legal recourse.

(E) For any application submitted subject to a claim of trade secret, the applicant shall provide two (2) copies of the application; one prominently marked as confidential and another that is subject to public review with confidential information excised. The Division will not accept applications that are deemed totally confidential except under extraordinary circumstances guaranteeing future disclosure at a meaningful time for public review.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

Rule 18

APPENDIX A

**INSIGNIFICANT ACTIVITIES LIST**

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APPENDIX A: INSIGNIFICANT ACTIVITIES LIST

The following types of activities or emissions are deemed insignificant on the basis of size, emission rate, production rate, or activity. Certain of these listed activities include qualifying statements intended to exclude many similar activities. By listing these activities, the Division exempts certain sources or types of sources from the requirements to obtain a permit or plan under Rule 18. Listing in this Appendix has no effect on any other law to which the activity may be subject. Any activity for which a State or federal applicable requirement applies (such as New Source Performance Standards, National Emissions Standards for Hazardous Air Pollutants, or Maximum Achievable Control Technology) is not insignificant, even if this activity meets the criteria below.

Group A

The following emission units, operations, or activities shall either be listed as insignificant or included in the permit application as sources to be permitted. The ton-per-year applicability levels are for all sources listed in the categories (i.e., cumulative total).

1. Fuel burning equipment with a design rate less than ten (10) million British thermal units per hour, provided that the aggregate specific emissions from all units listed as insignificant do not exceed five (5) tons per year of any combination of hazardous air pollutants and ten (10) tons per year of any other pollutant.

2. Storage tanks less than or equal to 250 gallons storing organic liquids having a true vapor pressure less than or equal to three and one-half (3.5) pounds-force per square inch absolute, provided that the aggregate air contaminant-specific emissions from all liquid storage tanks listed as insignificant do not exceed five (5) tons per year of any combination of hazardous air pollutants and ten (10) tons per year of any other air contaminant.

3. Storage tanks less than or equal to 10,000 gallons storing organic liquids having a true vapor pressure less than or equal to one-half (0.5) pounds per square inch absolute, if the aggregate air contaminant-specific emissions from all liquid storage tanks listed as insignificant do not exceed five (5) tons per year of any combination of hazardous air pollutants and ten (10) tons per year of any other air contaminant.

4. Caustic storage tanks that contain no volatile organic compounds.

5. Emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes if the aggregate air contaminant-specific emissions from all equipment/vents considered insignificant do not exceed five (5) tons per year of any combination of hazardous air pollutants and ten (10) tons per year of any other air contaminant.

6. Non**-**commercial water washing operations of empty drums less than or equal to fifty-five (55) gallons with less than three percent (3%) of the maximum container volume of material.

7. Welding or cutting equipment related to manufacturing activities that do not result in aggregate emissions of hazardous air pollutants in excess of one-tenth (0.1) tons per year.

8. Containers of less than or equal to five (5) gallons in capacity that do not emit any detectable volatile organic compounds or hazardous air pollutants when closed. This includes filling, blending, or mixing of the contents of the containers by a retailer.

9. Equipment used for surface coating, painting, dipping, or spraying operations, containing less than four-tenths (0.4) pounds per gallon volatile organic compounds, no hexavalent chromium, and no more than one-tenth (0.1) tons of all other hazardous air pollutants.

10. Non-production equipment approved by the Division used for waste treatability studies or other pollution prevention programs if the emissions are less than ten (10) tons per year of any air contaminant regulated under Rule 18 or less than two (2) tons per year of a single hazardous air pollutant [[3]](#footnote-4) or five (5) tons per year of any combination of hazardous air pollutants.

11. Operation of groundwater remediation wells, including emissions from the pumps and collection activities, if the emissions are less than ten (10) tons per year of any air contaminant regulated under Rule 18 or less than two (2) tons per year of a single hazardous air pollutant or five (5) tons per year of any combination of hazardous air pollutants. This does not include emissions from air-stripping or storage.

12. Emergency use generators, boilers, or other fuel burning equipment that:

1. Are of equal or smaller capacity than the primary operating unit;
2. Cannot be used in conjunction with the primary operating unit;
3. Do not emit or have the potential to emit air contaminants in excess of the primary operating unit;

(D) Are not operated more than ninety (90) days a year; and

(E) Do not provide electricity to the distribution grid.

13. Other activities for which the owner or operator of the stationary source demonstrates that no enforceable permit conditions are necessary to ensure compliance with any applicable law or regulation if the emissions are less than five (5) tons per year of any air contaminant regulated under Rule 18 or less than one (1) ton per year of a single hazardous air pollutant or two and one-half (2.5) tons per year of any combination of hazardous air pollutants.

Group B

The following emission units, operations, or activities do not need to be included in a permit application:

1. Combustion emissions from propulsion of mobile sources and emissions from refueling these sources unless regulated under Title II of the Clean Air Act and required to obtain a permit under Title V of the Clean Air Act and its implementing regulations. This does not include emissions from any transportable units, such as temporary compressors or boilers. This does not include emissions from loading racks or fueling operations covered under any applicable federal requirements;

2. Air conditioning and heating units used for comfort that do not have applicable requirements under Title VI of the Clean Air Act and its implementing regulations;

3. Ventilating units used for human comfort that do not exhaust air contaminants into the ambient air from any manufacturing/industrial or commercial process;

4. Non-commercial food preparation or food preparation at restaurants, cafeterias, or caterers, et cetera;

5. Consumer use of office equipment and products, not including commercial printers or business primarily involved in photographic reproduction;

6. Janitorial services and consumer use of janitorial products;

7. Internal combustion engines used for landscaping purposes;

8. Laundry activities, except for dry-cleaning and steam boilers;

9. Bathroom/toilet emissions;

10. Emergency (backup) electrical generators at residential locations;

11. Tobacco smoking rooms and areas;

12. Blacksmith forges;

13. Maintenance of grounds or buildings, including: lawn care, weed control, pest control, and water washing activities;

14. Repair, upkeep, maintenance, or construction activities not related to the source’s primary business activity, and not otherwise triggering a permit modification. This may include, but is not limited to, general repairs, cleaning, painting, welding, woodworking,

plumbing, re-tarring roofs, installing insulation, paved/paving parking lots, miscellaneous solvent use, application of refractory, or insulation, brazing, soldering, the use of adhesives, grinding, and cutting;[[4]](#footnote-5)

15. Surface-coating equipment during miscellaneous maintenance and construction activities. This activity specifically does not include any stationary source whose primary business activity is surface-coating or includes surface-coating or products;

16. Portable electrical generators that can be “moved by hand” from one location to another;[[5]](#footnote-6)

17. Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic;

18. Brazing or soldering equipment related to manufacturing activities that do not result in emission of hazardous air pollutants;[[6]](#footnote-7)

19. Air compressors and pneumatically operated equipment, including hand tools;

20. Batteries and battery charging stations, except at battery manufacturing plants;

21. Storage tanks, vessels, and containers holding or storing liquid substances that do not contain any volatile organic compounds or hazardous air pollutants;[[7]](#footnote-8)

22. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and no volatile aqueous salt solutions if appropriate lids and covers are used and appropriate odor control is achieved;

23. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and non**-**volatile aqueous salt solutions if appropriate lids and covers are used and appropriate odor control is achieved;

24. Drop hammers or presses for forging or metalworking;

25. Equipment used exclusively to slaughter animals, but not including other equipment at slaughter-houses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

26. Vents from continuous emissions monitors and other analyzers;

27. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;

28. Hand-held applicator equipment for hot melt adhesives with no volatile organic compounds in the adhesive;

29. Lasers used only on metals and other materials which do not emit hazardous air pollutants in the process;

30. Consumer use of paper trimmers/binders;

31. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;

32. Salt baths using non-volatile salts that do not result in emissions of any air contaminant covered by Rule 18;

33. Laser trimmers using dust collection to prevent fugitive emissions;

34. Bench-scale laboratory equipment used for physical or chemical analysis not including lab fume hoods or vents;

35. Routine calibration and maintenance of laboratory equipment or other analytical instruments;

36. Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis;

37. Hydraulic and hydrostatic testing equipment;

38. Environmental chambers not using hazardous air pollutant gases.;

39. Shock chambers, humidity chambers, and solar simulators;

40. Fugitive emissions related to movement of passenger vehicles if the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted;

41. Process water filtration systems and demineralizers;

42. Demineralized water tanks and demineralizer vents;

43. Boiler water treatment operations, not including cooling towers;

44. Emissions from storage or use of water treatment chemicals, except for hazardous air pollutants or air contaminants listed under regulations promulgated pursuant to § 112(r) of the Clean Air Act, for use in cooling towers, drinking water systems, and boiler water/feed systems;

45. Oxygen scavenging (de-aeration) of water;

46. Ozone generators;

47. Fire suppression systems;

48. Emergency road flares;

49. Steam vents and safety relief valves;

50. Steam leaks;

51. Steam cleaning operations;

52. Steam and microwave sterilizers;

53. Site assessment work to characterize waste disposal or remediation sites;

54. Miscellaneous additions or upgrades of instrumentation;

55. Emissions from combustion controllers or combustion shutoff devices, but not combustion units itself;

56. Use of products for the purpose of maintaining motor vehicles operated by the owner or operator of a stationary source, not including air cleaning units of vehicles (e.g., antifreeze, fuel additives);

57. Stacks or vents to prevent escape of sanitary sewer gases through the plumbing traps;

58. Emissions from equipment lubricating systems (i.e. oil mist), not including storage tanks, unless otherwise exempt;

59. Residential wood heaters, cookstoves, or fireplaces;

60. Barbecue equipment or outdoor fireplaces used in connection with any residence or recreation;

61. Log wetting areas and log flumes;

62. Periodic use of pressurized air for cleanup;

63. Solid waste dumpsters;

64. Emissions of wet lime from lime mud tanks, lime mud washers, lime mud piles, lime mud filter and filtrate tanks, and lime mud slurry tanks;

65. Natural gas odoring activities unless the Division determines that emissions constitute air pollution;

66. Emissions from engine crankcase vents;

67. Storage tanks used for the temporary containment of materials resulting from an emergency reporting to an unanticipated release;

68. Equipment used exclusively to mill or grind coatings in roll grinding rebuilding, and molding compounds if all materials charged are in paste form;

69. Mixers, blenders, roll mills, or calendars for rubber or plastic for which no materials in powder form are added and in which no hazardous air pollutants, organic solvents, diluents, or thinners are used or emitted;

70. The storage, handling, and handling equipment for bark and wood residues not subject to fugitive dispersion offsite (this applies to the equipment only);

71. Maintenance dredging of pulp and paper mill surface impoundments and ditches containing cellulosic and cellulosic derived biosolids and inorganic materials such as lime, ash, or sand;

72. Tall oil soap storage, skimming, and loading;

73. Water heaters used strictly for domestic (non-process) purposes;

74. Facility roads and parking areas, unless necessary to control offsite fugitive emissions;

75. Agricultural operations, including onsite grain storage, not including internal combustion engines or grain elevators; and

76. Natural gas and oil exploration and production site equipment not subject to a rule under 40 C.F.R. Parts 60, 61, or 63.

1. The language of 40 C.F.R. Part 51, Appendix P that was in effect on December 8, 1986 can be accessed in the Federal Register at 51 FR 40675. [↑](#footnote-ref-2)
2. The language of 40 C.F.R. Part 51, Appendix P that was in effect on December 8, 1986 can be accessed in the Federal Register at 51 FR 40675. [↑](#footnote-ref-3)
3. The treatability study or pollution prevention program must be approved separately. The activity creating the emissions must also be determined to be insignificant as discussed in the introduction to this group. [↑](#footnote-ref-4)
4. Cleaning and painting activities qualify if they are not subject to volatile organic compound or hazardous air pollutant control requirements. Asphalt batch plant owners/operators must get a permit. [↑](#footnote-ref-5)
5. “Moved by hand” means that it can be moved by one person without assistance of any motorized or non-motorized vehicle, conveyance, or device. [↑](#footnote-ref-6)
6. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit hazardous air pollutant metals are more appropriate for treatment as insignificant activities based on size or production thresholds. Brazing, soldering, and welding equipment, and cutting torches related directly to plant maintenance and upkeep and repair or maintenance shop activities that emit hazardous air pollutant metals are treated as trivial and listed separately in this appendix. [↑](#footnote-ref-7)
7. Exemptions for storage tanks containing petroleum liquids or other volatile organic liquids are based on size and limits including storage tank capacity and vapor pressure of liquids stored and are not appropriate for this list. [↑](#footnote-ref-8)