

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 18, ARKANSAS AIR) DOCKET NO. 08-____-R
POLLUTION CONTROL CODE)

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation Number 18, Arkansas Air Pollution Control Code, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation Number 18, Arkansas Air Pollution Control Code. Regulation 18 is applicable to any source which emits or has the potential to emit any air contaminant as defined in the regulation. By separate petition, the Department proposes changes to Regulation Number 19 and Regulation Number 26 contingent upon the Commission promulgating Regulation Number 18. The Department requests that the Commission consider the initiation of rulemaking associated with the promulgation of Regulation Number 18 to be contingent upon the Commission's decision to initiate rulemaking to amend Regulation Number 19 and Regulation Number 26. The Department makes this request to avoid the potential of either of two possible results:

- (a) The regulatory flexibility provisions we are proposing to add will not be effective unless all three regulations are initiated simultaneously; and
- (b) Regulations containing different permitting thresholds could cause confusion and unequal treatment of sources.

2. The proposed regulatory amendments involve the following:

- (a) Adding a definition of EPA and Title I modification;

- (b) Moving the effective date language from the front of the regulation to its own, new chapter, Chapter 15;
- (c) Updating Reg. 18.301, Applicability, to change the emissions permitting thresholds from 25 tons per year (tpy) to 40 tpy or more of nitrogen oxides, from 25 tpy to 40 tpy or more of sulfur dioxide from 25 tpy to 40 tpy or more of volatile organic compounds, from 15 tpy to 25 tpy or more of particulate matter from 10 tpy to 15 tpy or more of particulate matter that is 10 micrometers in diameter or smaller, from 1.0 tpy to 2.0 tpy or more of any single hazardous air pollutant and from 3.0 tpy to 5.0 tpy or more of any combination of hazardous air pollutants; and adding charcoal plants to the list of sources that are required to obtain a permit regardless of emissions and adding to the list of source types that are not required to have a permit the following: Stationary Reciprocating Internal Combustion Engines for non-part 70 sources (minor sources), Hospital Ethylene Oxide Sterilizers, Gasoline Dispensing Facilities, Stationary Compression Ignition Internal Combustion engines for engines with a displacement of less than 30 liters per cylinder and Stationary Spark Ignition Internal Combustion Engines;
- (d) Removing language in Reg. 18.307 that refers to disclosure statements and replacing it with a reference to Regulation Number 8 which contains the applicable language.
- (e) Clarifying that permit public notice requirements do not apply to changes in ownership or changes in name in Reg. 18.307;
- (f) Modifying and adding *De Minimis* levels in Reg. 18.307 for certain pollutants, the level at which a proposed modification would be considered trivial, from 5 tpy for carbon monoxide to 75 tpy; from 20 tpy for nitrogen dioxide, sulfur dioxide, or volatile organic compounds to 40 tpy; and establishing levels for

particulate matter at 25 tpy and particulate matter that is 10 micrometers in diameter or smaller at 15 tpy;

- (g) Adding the new sections Reg. 18.312, Operational Flexibility-Applicant's duty to apply for alternative scenarios; Reg. 18.313, Changes resulting in no emissions increases; and 18.314, Permit Flexibility. Reg. 18.312 allows facilities to implement an operating scenario allowed for in the permit without permit revisions or notifying the Department. Reg. 18.313 also allows a permitted source to make changes in the facility that deviate with permit terms without a permit revision in certain circumstances. Reg. 18.314 allows the Department to grant extensions to any testing, compliance, or other dates in the permit. The Department may also allow temporary emissions and/or testing that would otherwise exceed a permitted emission rate, throughput requirement, or other limit in a facility's permit and the Department may grant a request to allow an alternative to the monitoring specified in a permit under certain circumstances;
- (h) Changing in Appendix A, Insignificant Activities List in Group A, the list of units, operations or activities that must be either listed as insignificant or included in the permit application as sources to be permitted, to add an exemption for generators that provide electricity to the distribution grid to item number 12. Additionally in Group B, the list of emissions units, operations, or activities that need not be included in a permit application, item number 69 has been changed with the addition of hazardous air pollutants to the list of substances that cannot be used or emitted from mixers, blenders, roll mills, or calendars for rubber or plastic for which no materials in powder form are added; and
- (i) Updating formatting, correcting typographical errors and inconsistencies in the regulation, and updating it to conform to state law.

3. The proposed changes to Regulation Number 18 do not require an economic impact/environmental analysis because the proposed changes are not expressly addressed by a Federal requirement.
4. The proposed changes to Regulation Number 18 are exempt from the requirements of Act 143 of 2007. As such, a review by the Arkansas Economic Development Commission (AEDC) is not required.
5. Mike Bates or other Air Division staff from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit "B", and a copy of a financial impact statement for the proposed revision is attached as Exhibit "C", both of which are incorporated by reference. An analysis of the impact to small business required pursuant to Act 143 of 2007 (formerly Executive Order 05-04), is attached as Exhibit "D" and hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "E" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "F" and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation Number 18.

Respectfully Submitted,
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ENVIRONMENTAL QUALITY
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