

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 18, ARKANSAS AIR) DOCKET NO. 09-____-R
POLLUTION CONTROL CODE)

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NUMBER 18, ARKANSAS AIR POLLUTION 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 Number 18 is applicable to any source which emits or has the potential to emit any air contaminant as defined in the regulation. The Department proposes this rulemaking to clarify that a permit issued through the administrative permitting procedure described in Regulation Number 8 of the Arkansas Pollution Control and Ecology Commission is not required to obtain permission for open burning. The proposed changes will amend the language of Regulation Number 18 to align with the open burning practices currently in use by the ADEQ, and will resolve inconsistency in the language used for such practices within different sections of Regulation Number 18, Chapter 6.

2. The proposed regulatory amendments precipitated by the above-referenced need for clarification involve the following:

(a) Changes made to Reg. 18.605 of Regulation Number 18. The proposed regulatory amendments seek to clarify the administrative process

necessary to obtain Department authorization to conduct open burning and to resolve inconsistency in the language used for such practices within different sections of Regulation Number 18, Chapter 6. It is not the intention of ADEQ to issue a permit for open burning that would have to follow the administrative procedures required under Arkansas Pollution Control and Ecology Commission Regulation Number 8. Reg. 18.603 refers to the process as a “letter of authorization,” whereas Reg. 18.605 uses the term “permit.” The phrase “letter of authorization” more accurately and appropriately describes the document and process utilized by the Department for these short term activities and does not imply that the permitting process described in Regulation Number 8 must be followed. Making this change will help clarify for the citizens of Arkansas the requirements to obtain authorization for open burning and is consistent with the procedures regarding open burning currently addressed in Reg. 18.603(I).

3. The proposed changes to Regulation Number 18 have been reviewed by the Arkansas Economic Development Commission (AEDC) as required Under Act 143 of 2007.
4. Mike Bates or other Air Division staff from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit “B”, and a copy of a Financial Impact Statement for the

proposed revision is attached as Exhibit "C", both of which are incorporated by reference. A memo regarding compliance with Act 143 of 2007 is attached as Exhibit "D" and hereby 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 "E" and hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "F" and is hereby incorporated by reference. A proposed minute order is attached as Exhibit "G" 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,
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY
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By: Mike Bates
Mike Bates