

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 18, ARKANSAS AIR)
POLLUTION CONTROL CODE) DOCKET NO. 14 009-R

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NO. 18, ARKANSAS AIR POLLUTION CONTROL CODE

Comes now, the Arkansas Department of Environmental Quality (hereinafter
“ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Arkansas
Pollution Control & Ecology Commission (hereinafter “APC&EC” or “Commission”)
Regulation No. 18, Arkansas Air Pollution Control Code, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation
No. 18, Arkansas Air Pollution Control Code.
2. The proposed regulatory amendments involve the following:

(a) **Substantive changes** are proposed to Regulation No. 18 as follows:

- i. Inclusion of revised federal standards for the 2012 National Ambient Air
Quality Standard (NAAQS) for fine particulate matter (PM_{2.5}): An
incorporation by reference date of January 15, 2013, is updated at Chapter 2,
within the definitions of “National Ambient Air Quality Standards,” to
include the new primary annual averaging time at 12 micrograms per cubic
meter (“μg/m³”). Additionally, Appendix B is added to include EPA’s
National Ambient Air Quality Standards List, which includes the Federal
Register citation, and the date of the publication for each pollutant.
- ii. The proposed addition of a definition for “Emission increase” at Chapter 2,
consistent with the definition currently proposed for Regulation No. 19.

Additionally, at 18.307(C)(2), *De Minimis* Changes, language was revised to clarify the section by including reference to the proposed definition of “Emission increase,” and removing redundant phrasing.

- iii. The Testing Methods and Records section of Chapter 10 includes proposed revisions to include the most recent federal revisions.
- iv. The phrase “10 tons per year or more of direct PM_{2.5}” is added at 18.301, within the General Applicability section, the phrase “10 tons per year of direct PM_{2.5}” is added at 18.307(C)(2)(a)(v) to include a *De Minimis* threshold for permit amendments, and a row is added in the table at 18.307(C)(2)(b) to include a *De Minimis* air quality impact for PM_{2.5} (2 µg/m³—24-hour).

(b) **Non-substantive revisions** made for clarification and consistency purposes, and to correct typographical errors throughout Regulation No. 18 include:

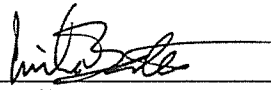
- i. Including Federal Register publish date citations within the definitions of “PM_{2.5},” and “PM₁₀,” where arbitrary dates of incorporation existed before. This action will help clarify the regulation so users may identify and verify against the federal statute associated with a specific condition. Additional items under 18.1002(F) and 18.1003(A) and (B), related to test methods, data requirements, etc., are revised in the same manner.
- ii. Adding “stationary” at 18.301(B)(3) to clarify the applicability;
- iii. Adding two exemptions to the list at 18.301(B)(3), “(l)” and “(m);”
- iv. Deleting and rearranging duplicative language at 18.307(B);
- v. Clarifying language at 18.315(E);
- vi. Adding a space in “woodwaste” at 18.501(D)(1);

- vii. Correcting the spelling of “effect” at 18.104, “notwithstanding,” and “that” at 18.501(A) and (A)(1), and “insure” at Appendix A, Group A, number 13;
 - viii. Deleting “an” at 18.701(B) to correct grammar;
 - ix. Adding section titles for (A) – (F) at 18.1002;
 - x. Clarifying language at Appendix A, under Group A and under Group B;
 - xi. Removing bold formatting from section titles throughout the regulation;
 - xii. Clarifying listed numbers by also spelling them out, e.g., “twelve (12),” throughout the regulation;
 - xiii. Correcting “CFR” to “C.F.R” throughout the regulation;
 - xiv. Correcting “A.C.A.” to “Ark. Code Ann.” throughout the regulation; and
 - xv. Deleting duplicate section symbols (“§”) where not appropriate; and
 - xvi. Removing unnecessary instances where EPA is spelled out.
3. The proposed changes to Regulation No. 18 have been sent for review by the Department to 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 markup 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 to the Commission and an electronic mail message to the AEDC regarding compliance with Act 143 of 2007 are attached as Exhibit

“D,” and the associated Economic Impact Statement is attached as Exhibit “E;” both are hereby incorporated by reference. Parts of this rulemaking are not exempt from the Economic Impact/Environmental Benefit Analysis (“EIEBA”) requirement under Reg. 8.812. Although most of the substantive proposed additions incorporate language from federal regulation without substantive change, and the non-substantive proposed additions make only de minimis changes to the existing regulation and correct typographical errors, some substantive revisions are not directly incorporated from existing federal law. The proposed addition of a definition for “Emission increase” and related revisions at 18.307(C)(2) are not exempt. For these revisions, an EIEBA is attached as Exhibit “F,” and is hereby incorporated by reference. A proposed minute order is attached as Exhibit “G,” and is hereby incorporated by reference. During the public comment period, ADEQ will take comments on when an analysis would be required to evaluate impacts on the National Ambient Air Quality Standards during the permitting process. Additionally, ADEQ will take comment on requirements for such an analysis, when required.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process,
adopt the proposed Minute Order, and adopt the proposed amendments to Regulation No. 18.

Respectfully Submitted,
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By: 
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