

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Motion to Withdraw
Rulemaking - Regulation No. 19**

Docket No. 16-001-R

MINUTE ORDER NO. 18-_____

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On April 15, 2016, the Arkansas Department of Environmental Quality (ADEQ) filed a Petition to Initiate Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. The Arkansas Pollution Control and Ecology Commission authorized initiation of the rulemaking by Minute Order 16-08 dated April 29, 2016.

The public notice, public hearing, and public comment period of the regulatory amendments have been completed. However, the primary federal action that triggered the necessity of this rulemaking—"State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction" (SSM SIP Call)—has experienced a myriad of challenges, including petitions for reconsideration and litigation. The Arkansas Attorney General joined in a lawsuit challenging EPA's action. Oral arguments in the legal challenge to EPA's SSM SIP Call were originally scheduled for May 8, 2017; however, current EPA administration requested that the oral arguments be extended to provide adequate time for the appropriate time to fully review the SSM SIP Call. EPA indicated that the prior positions taken by the Agency with respect to the SSM SIP Call "may not necessarily reflect its ultimate conclusions after [their review of that action] is complete." To date, neither the current EPA administration nor the lawsuit has moved forward towards any resolution. ADEQ anticipates that EPA's policy with respect to startup, shutdown, and malfunction may change and that any such change would require revisions to the amendments contained in the this rulemaking. Such changes would necessitate an additional public comment period. Therefore, ADEQ finds that the previously proposed rulemaking is not prudent at this time and requests that the rulemaking be withdrawn.

In consideration of the Motion to Withdraw Petition to Initiate Rulemaking to Amend Regulation No. 19 and other items filed related to the proposed regulatory amendments, the Commission grants the Motion filed by the Arkansas Department of Environmental Quality. The rulemaking initiated by 16-08 is withdrawn and the docket is closed.

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**PROMULGATED THIS 28th DAY OF SEPTEMBER 2018 BY ORDER OF THE
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

BY: _____

Robert Reynolds, Chair

COMMISSIONERS

_____**L. Bengal**
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_____**J. Fox**
_____**M. Freeze**
_____**C. Gardner**
_____**M. Goggans**

_____**B. Holland**
_____**D. Melton**
_____**S. Moss, Jr.**
_____**W. Stites**
_____**G. Wheeler**
_____**B. White**

R. Reynolds, Chair

SUBMITTED BY: Stuart Spencer

PASSED _____