

Pollution Control and Ecology Commission # 014.00-018

**ARKANSAS POLLUTION CONTROL
and ECOLOGY COMMISSION**

**RULE NO. 18
ARKANSAS AIR POLLUTION CONTROL
CODE**



Approved by Arkansas Pollution Control and Ecology Commission
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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 “Air Code,” the “Code,” or “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 rules set out in Ark. Code Ann. §§ 8-4-301 and 302, as those provisions apply to the Division’s permitting, enforcement, and administrative functions (Ark. Code Ann. § 8-1-202) and the Commission’s rulemaking and adjudicatory functions (Ark. Code Ann. § 8-1-203).
- (B) By authority of the same State law, the Commission has also adopted Rule 19, Rules of the Arkansas Plan of Implementation for Air Pollution Control (Rule 19) and Rule 26, Rules of the Arkansas Operating Air Permit Program (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 which 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 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 which 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 this Code or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are declared to be severable.

CHAPTER 2: DEFINITIONS

When used in this Code:

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

“Actual emissions” means the quantity of air contaminants emitted from a stationary source considering emissions control equipment and actual hours of 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 contamination” means the presence in the outdoor atmosphere of one (1) or more air contaminants which contribute to a condition of air pollution.

“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 throughout the area of the state as shall be affected thereby.

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

“Conditions of air pollution” as distinguished from “air pollution” in a given area shall be deemed to exist when the Director finds that the National Ambient Air Quality Standards, as established from time to time by the EPA, have been exceeded in such area, or when 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 when 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 such levels can be reasonably expected to persist for twelve (12) or more hours or increase unless control actions are taken:

Sulfur dioxide (SO₂) of a concentration equal to or greater than 800 µg/m³ (1.3 ppm) for any twenty-four (24) hour average (where µg/m³ means micrograms per cubic meter and where ppm means parts per million), or where particulate matter (PM) of a concentration equal to or greater than 375 µg/m³ for any twenty-four (24) hour average or where the coefficient of haze (COH) is equal to or greater than three (3.0) for any twenty-four (24) hour average, or where the product of SO₂ and PM reported in µg/m³ for any twenty-four (24) hour average exceeds 65,000.

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

“Division” means the Division of Environmental Quality, or its successor. When reference is made in this rule 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.

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

“Federal Clean Air Act” or **“Clean Air Act”** or **“FCAA”** or **“the Act”** means the federal Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*, and its implementing regulations as of the effective date of this rule.

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

“Flue” or **“stack”** means any point in a 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 which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

“Hazardous air pollutant” or **“HAP”** means any pollutant listed pursuant to § 112 of the federal Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*, as of the effective date of this rule.

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

“Incinerator” means all devices by which garbage, refuse, or other combustible material is reduced 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” or **“NAAQS”** means those ambient air quality standards promulgated by the EPA in 40 Code of Federal Regulations (C.F.R.) Part 50 as of the effective date of the federal rule published by EPA in the Federal Register on January 15, 2013 (78 FR 3086), as set forth in Appendix B of Rule 18.

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

“Open fire” or **“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 these rules.

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

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

“PM_{2.5}” means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half (2.5) micrometers as measured by a reference method based on Appendix L of 40 C.F.R. Part 50, as of the effective date of the federal rule published by EPA in the Federal Register on October 17, 2006 (71 FR 61226), or by an approved regional method designated in accordance with Appendix C of 40 C.F.R. Part 53.

“PM₁₀” means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 C.F.R. Part 50, as of the effective date of the federal final rule published by EPA in the Federal Register on August 7, 1987 (52 FR 29467), or by an equivalent method designated in accordance with 40 C.F.R. Part 53.

“PM_{2.5} emissions” means PM_{2.5} emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 C.F.R. Part 51, Appendix M as of the effective date of the federal final rule published by EPA in the Federal Register on April 2, 2014 (79 FR 18452), or by a test method specified in these regulations or any supplement thereto.

“PM₁₀ emissions” means PM₁₀ emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 C.F.R. Part 51, Appendix M as of the effective date of the federal final rule published by EPA in the Federal Register on April 2, 2014 (79 FR 18452), or by a test method specified in these regulations or any supplement thereto.

“Potential to emit” means the maximum capacity of a stationary source to emit air contaminants under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air contaminate, 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, shall be treated as part of its design only if the limitation or the effect it would have on emissions is practically enforceable. 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” means one of the following:

- (A) For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy

or decision-making functions for the corporation, or a duly authorized representative or such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- (1) The facilities employ more than 250 persons or have a gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 United States Dollars); or
 - (2) The delegation of authority to such representative is approved in advance by the Division;
- (B) For partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (C) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this rule, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- (D) For acid rain sources:
- (1) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act as of July 1, 1997, or the regulations promulgated thereunder are concerned; and
 - (2) The designated representative for any other purposes under Part 70.

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

“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 which emits or may emit any air contaminant.

“Title I modification” means any modification as defined under any regulation promulgated pursuant to Title I of the federal Clean Air Act as of July 2, 2008. De Minimis changes under Rule 19, changes to state-only permit requirements, administrative permit amendments, and changes to the insignificant activities list are not Title I modifications.

“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.

“Total suspended particulate” or **“TSP”** means particulate matter as measured by the method described in Appendix B of 40 C.F.R. Part 50.

CHAPTER 3: PERMITS

Rule 18.301 Applicability

(A) General Applicability

No person shall cause or permit the operation, construction, or modification of a stationary source, which actually emits:

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

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

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

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

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

ten (10) tons per year or more of direct PM_{2.5};

fifteen (15) tons per year or more of PM₁₀;

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

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

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

twenty-five (25) tons per year or more of any other air contaminant

without first obtaining a permit from the Division.

(B) Special Applicability

Except as provided for by law or rule, 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 source's operation and/or actual emissions is such that a permit is necessary for the protection of public health and welfare or to assist in the abatement or control of air pollution. Such sources 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 WWWW (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

No permit shall be granted or modified under this chapter unless the owner/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/operator to comply with applicable portions of this rule.

Rule 18.304 Required Information

(A) General

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

- (1) information on the nature and amounts of air pollutants to be emitted by the stationary source or by associated mobile sources; and
- (2) such information on the location, design, and operation of stationary source as the Division may reasonably require.

(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 such information in writing and set a reasonable deadline for a response.

(C) Duty to Correct Submittal

Any owner/operator who fails to submit any relevant facts or who has submitted incorrect information, shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide

additional information as necessary to address any relevant requirements that become applicable to the stationary source before final action is taken on its 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 their 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 as amended by February 15, 1999;
- (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 federally regulated air pollutant emitted by the facility;
- (5) the stationary source will be constructed or modified to operate without resulting in a violation of any applicable provisions of this rule;
- (6) the emission rate calculations are complete and accurate; and
- (7) if the facility wishes to measure and/or monitor operating parameters rather than actual emissions, the application describes a process which will be used to ensure that the calculations are translated into enforceable limits on operational parameters rather than emissions.

(B) Proposed Action

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

- (1) contains such conditions as the Division may prescribe, to prevent, control, or abate air pollution;
- (2) addresses all recognized air pollutant emissions and all pollutant emitting equipment at the stationary source except pollutants or equipment specifically exempt;

If the Division initially determines the requirements of this chapter are not met, they shall prepare a notice of intent to deny. This notice will state the reasons for the Division's denial of the stationary source's submittal.

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

(A) General

No permit shall be issued, denied, or modified unless the public has first had an opportunity to comment on the information submitted by the owner/operator and the Division's analysis, as demonstrated by the permit record, of the effect of construction or modification on ambient air quality, including the Division's proposed approval or disapproval of the permit.

(B) Public Availability of Information

(1) For purposes of this section, opportunity to comment shall include, at a minimum:

- (a) Availability for the public inspection in at least one location in the area where the source is located, or proposes to locate, and in the Division's central offices of the Division's draft decision, information submitted by the owner/operator, and any information developed by the Division in support of its draft permit decision;
- (b) A 30-day period for submittal of public comment (beginning on the date of the latest newspaper notice, ending on the date 30 days later);
- (c) Publication in a newspaper of general circulation in the area where the source is located or proposes to locate, and in a State publication designed to give general public notice. Such notice shall, as a minimum, describe the locations at which the information submitted by the owner/operator and the Division's analysis of this information, may be inspected and the procedure for submitting public comment;
- (d) A copy of the notice, required pursuant to this subsection, shall be sent to the owner/operator and to the:
 - (i) mayor of the community where the stationary source is proposed to be constructed or modified;

- (ii) county judge of the county where the stationary source is proposed to be constructed or modified; and
 - (e) Public comments addressing the technical merits of the permit application and the Division's analysis of the effect of the proposed emissions on air quality submitted in accordance with procedures in the public notice shall be considered by the Division prior to making its final decision.
- (2) The Division shall take final action on a permit application after the close of the public comment period. The Division shall notify in writing the owner/operator and any person that submitted a written comment, of the Division's final action and the Division's reasons for its final action.

Rule 18.307 Permit Amendments

(A) Administrative Permit Amendments

- (1) An administrative permit amendment is a permit revision that:
 - (a) corrects a typographical error;
 - (b) 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 source;
 - (c) requires more frequent monitoring or reporting by the permittee;
 - (d) 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
 - (e) incorporates a change to the facility's insignificant activities list.
- (2) The Division shall revise the permit as expeditiously as practicable and may incorporate such revisions without providing notice to the public.
- (3) The applicant may implement the changes addressed in the request for an administrative amendment immediately upon approval.

(B) Change in Ownership

- (1) Permits issued under this rule shall remain freely transferable provided the applicant for the transfer:
 - (a) notifies the Director at least thirty (30) days in advance of the proposed transfer date on such forms as the Director may reasonably require; and

- (b) submits a disclosure statement in accordance with Commission Rule 8, Administrative Procedures, or other such 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 which he or she deems appropriate, that:
 - (a) The applicant has a history of non-compliance with the environmental laws or regulations of this state or any other jurisdiction;
 - (b) A applicant which owns or operates other facilities in the state is not in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, the environmental laws or regulations of this state; or
 - (c) A person with a history of non-compliance with environmental laws or regulations 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 which 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 modification to a facility will be considered *De Minimis* if:
 - (a) minimal judgment is required to establish the permit requirements for the modification; and
 - (b) the modification 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:
 - (i) seventy-five (75) tons per year of carbon monoxide;
 - (ii) forty (40) tons per year of nitrogen dioxide, sulfur dioxide, or volatile organic compounds;
 - (iii) one-half (0.5) ton per year of lead;

- (iv) twenty five (25) tons per year of particulate matter;
 - (v) ten (10) tons per year of direct PM_{2.5}; and
 - (vi) fifteen (15) tons per year of PM₁₀ emissions;
- (b) or, result in an air quality impact less than:

Pollutant	<i>De Minimis</i> Concentration	Averaging Time
carbon monoxide	500 µg/m ³	8-hour
nitrogen dioxide	10 µg/m ³	annual
PM _{2.5}	2µg/m ³	24-hour
PM ₁₀	8 µg/m ³	24-hour
sulfur dioxide	18 µg/m ³	24-hour
lead	0.1 µg/m ³	3-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 source;
 - (b) any change which 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 (BACT), §§ 112(g), 112(i)(5), 112(j), or 111(d) of the Clean Air Act as amended by February 15, 1999;
 - (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 a source has assumed to avoid an applicable requirement to which the source would otherwise be subject;
 - (f) any significant change or relaxation to existing testing, monitoring, reporting, or recordkeeping requirements; or

- (g) any proposed change which requires more than minimal judgment to determine eligibility.
- (4) 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 applicant may implement *De Minimis* changes immediately upon approval by the Division.
- (6) The Division shall revise the permit as expeditiously as practicable and may incorporate *De Minimis* changes without providing notice to the public.

Rule 18.308 Exemption from Permitting

(A) Insignificant Activities

Stationary sources and activities listed in Appendix A of this rule shall be considered to be insignificant and will not require a permit under this chapter or be included in a source's permit.

(B) Grandfathering

Stationary sources operating prior to July 30, 1969, and have not been modified since, will not be required to obtain a permit under this chapter.

(C) Rule 26 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 this rule.

(D) Rule 19 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 this rule.

Rule 18.309 Permit Revocation and Cancellation

(A) Revocation

Any permit issued under this rule 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 or 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 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 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 sources. Any general permit shall comply with all requirements applicable to other permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Division shall grant the conditions and terms of the general permit. The source shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.

(B) Application

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 source's request for authorization to operate under a general permit, but such a 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 Transition

Facilities which are now subject to this rule and were not previously subject to this rule shall be in full compliance within 180 days of the effective date of this rule. The Director may extend this compliance period on a case-by-case basis provided that the total compliance period does not exceed one year.

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

Any operating scenario allowed for in a permit may be implemented by the facility without the need for any permit revision or any notification to the Division. 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.

Rule 18.313 Changes Resulting in No Emissions Increases

A permitted source may make changes within the facility that contravene permit terms without a permit revision if the changes:

- (A) Are not modifications under any provision of Title I of the Act as amended by July 2, 2008;
- (B) Do not exceed emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions);
- (C) Do not violate applicable requirements; and
- (D) Do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements;

provided that the facility provides the Division with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, or such shorter time frame that the Division allows for emergencies. The source and the Division shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which 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 dates in the permit. No extensions shall be authorized until the permittee of the facility 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 facility makes such a request in writing at least fifteen (15) days in advance of the deadline specified in the facility's permit;
 - (2) the extension does not violate a federal requirement;
 - (3) the permittee of the facility demonstrates the need for the extension; and
 - (4) the permittee of the facility 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 facility's permit. No such activities shall be authorized until the permittee of the facility 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 facility makes such a 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 facility's permit;
 - (2) Such a request does not violate a federal requirement;
 - (3) Such a request is temporary in nature;
 - (4) Such a request will not result in a condition of air pollution;
 - (5) The request contains such information necessary for the Division to evaluate the request, including but not limited to, quantification of such emissions and the date and time such emissions will occur;
 - (6) Such a request will result in increased emissions less than five (5) tons of any individual criteria pollutant, one ton of any single HAP and two and one-half (2.5) tons of total HAPs; and
 - (7) The permittee of the facility maintains records of the dates and results of such temporary emissions and/or testing.
- (C) The Division may grant a request to allow an alternative to the monitoring specified in a facility's operating permit. No such activities shall be authorized until the permittee of the facility 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 facility makes such a request in writing at least thirty (30) days in advance of the first date that the monitoring alternative will be used at the facility;
 - (2) such a 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 facility's operating permit; and
 - (4) any such request, if approved by the Division, is incorporated into the next permit modification application by the permittee of the facility.

Rule 18.315 Registration

- (A) No person shall cause or permit the operation, construction, or modification of a stationary source, whose actual emissions 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

without first having registered the source with the Division.

(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 which increases the emission rates of any air pollutant, specified above, previously registered with the Division or results in the emission of an air pollutant not previously emitted and registered with the Division.)

- (B) Such registration shall be made on such forms and contain such information as the Division may reasonably require, including but not limited to:
 - (1) the name and address of the facility;
 - (2) an estimate of emissions from the facility; and
 - (3) an explanation of how the emissions estimate was determined.
- (C) Such registration does not affect the responsibility of the owner/operator to comply with applicable portions of this rule.
- (D) A facility may construct, operate, or modify a source subject to registration under this section immediately upon submittal of the registration.
- (E) Sources registered under this section shall pay an annual fee of \$200. The requirements of Chapter 3 (Permit Fee Payment) of the Commission’s Rule 9, Fee Rule, shall apply to fees collected under this section.
- (F) Sources currently holding permits but whose emissions are below the permitting thresholds in Rule 18.301, and above the registration thresholds under Rule 18.315(A)

may elect to continue to operate under their existing permit or they may submit a registration and request their permit be voided. The permit shall remain in effect until voided. If a source takes no action, the permit will remain in effect.

- (G) A 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) No person shall cause or permit visible emissions (other than uncombined water vapor) from equipment to exceed the limitations of this section except as specifically provided within this Code. More stringent limitations on individual pieces of equipment may be imposed by the Division in applicable permits due to control requirements or control apparatus, corresponding emission limitations and/or applicable national standards.
- (1) For equipment installed on or before January 30, 1972, emissions shall not exceed 40% opacity, except that emissions greater than 40% opacity will be allowed for not more than six (6) minutes in the aggregate in any consecutive sixty (60) minute period, provided such emissions will not be permitted more than three (3) times during any twenty-four (24) hour period.
 - (2) For equipment installed or modified after January 30, 1972, emissions shall not exceed an opacity greater than 20% except as described in (A)(3) below.
 - (3) Notwithstanding (A)(2) if this subsection, for wood, coal or oil fired boilers installed or modified after January 30, 1972, emissions shall not exceed 20% opacity, except that emissions of opacity greater than 20%, but not exceeding 60%, will be allowed for not more than six (6) minutes in the aggregate in any consecutive sixty (60) minute period, provided such emissions will not be permitted more than three (3) times during any twenty-four (24) 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 45 minutes once in any consecutive 8 hour period, three times in any consecutive twenty-four (24) hour period for soot blowing, grate cleaning, ash raking, and refiring necessary for proper operation of these units. This practice is to 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 45 minutes.
- In determining the emissions of a source for purposes of demonstrating air pollution will not occur, the Division shall take into account any incremental increase in allowable emissions under these conditions.
- (B) Opacity of visible emissions shall be determined using EPA Method 9 (40 C.F.R. Part 60, Appendix A as of July 1, 1997).
- (C) As used in this subsection, the term “existing equipment” means equipment which was installed and in operation as of January 30, 1972, or equipment for which a permit has

been issued pursuant to Chapter 3 of this Code prior to January 30, 1972, and the term “new equipment” means all equipment other than existing equipment.

- (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, provided that start-up does not exceed thirty minutes and provided, further, that there is only one such start-up per day;
 - (2) The application of fertilizers, pesticides, and defoliant;
 - (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 families; and
 - (8) The use of portable incinerators used for the disposal of debris from demolition and land clearing operations.
- (E) The owner or operator of equipment may petition the Director for an emission limitation less stringent than that provided in Rule 18.501(A) provided, however, that such petition if filed not more than six months after commencement of operation of equipment for which a permit has been issued by the Director and, provided further, that such equipment is in compliance with all provisions of the Air Code except those of Rule 18.501(A). The petition shall contain such information as the Director may reasonably require. Upon review of the petition and any other evidence before him or her, 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; provided that the Director affirmatively finds full compliance with all other provisions of the Air Code, and that full compliance with provisions of this section is technically or economically infeasible. The petitioner shall be notified of the Director’s decision within a reasonable time.

CHAPTER 6: EMISSIONS FROM OPEN BURNING

Rule 18.601 Intent

In order to avoid conflicting and overlapping jurisdiction, it is the intention of this chapter to clarify the position that the Division 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, rules or regulation in this field, unless such laws, ordinances, resolutions, rules or regulations 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 18.602 General Prohibition

No person shall cause or permit the open burning of refuse, garbage, trade waste, or other waste material, or shall 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; provided however, that this exemption shall not be extended to the disposal, by open burning, of waste products generated by cotton gins, or similar equipment used in a manufacturing process or to the disposal by open burning of fowls or animals;
- (C) Controlled fires used for purposes of forest and wildlife management, provided that such fires are used and burned when winds are blowing away from populated areas which 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, provided that all other applicable provisions of this Code are complied with;
- (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, where, because of the isolated location, such 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 when 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 instructions;

- (H) Open burning incident to on-site clean-up operations resulting from transportation accidents where, because of the isolated location, the material to be burned cannot be reclaimed or recovered, or where there is no other practical, safe, or lawful method of disposal; provided, however, that the Director shall be notified of the exact location, and the nature and quantities of materials to be burned prior to ignition; and provided, further, that such burning shall be conducted in accordance with the written approval of the Director. At his or her election, the Director's approval may be delivered by telephone, and confirmed, thereafter, in writing, in the case of an emergency; and
- (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 permit such 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 such area which otherwise is exempted in this Section, shall be discontinued as set forth herein, unless otherwise is specifically provided in the Director's public announcements pursuant to the provisions of Chapter 14 of this Code.

- (A) Conditions of air pollution as defined in Chapter 2 of this Code -- Open burning as provided in Rule 18.603(B)(C)(F) and (H) shall be discontinued until such conditions have been declared by the Director to have ceased to exist. The Division may limit the scope of such 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 such activity.
- (B) Conditions of episodic air pollution as defined in Chapter 2 of this Code -- Open burning as provided in Rule 18.603(B)(C)(F) and (G) shall be discontinued upon public announcement by the Director, until such time that the Director declares such conditions have ceased to exist. The Director may limit the scope of such discontinuance to one or more of the activities if he or she finds that the conditions of air pollution are caused primarily by such activity.
- (C) The prohibition of open burning pursuant to the provisions of Rule 18.604 shall be in effect as of January 30, 1972, except that such prohibition shall not be applicable to Rule 18.603(B) of this chapter until July 15, 1973.
- (D) The Director may permit 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 such

open burning is absolutely necessary, in the Director's opinion, to prevent danger to life or property.

- (E) 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

Upon application, the Division shall issue letters of authorization for open burning, provided that the applicant affirmatively demonstrates to the satisfaction of the Division, that there are no practicable, safe, and lawful alternative methods of disposal and that open burning is absolutely necessary and in the public interest and provided, further, that said applications contain such other information as the Division may reasonably require. Only letters of authorization issued by the Division satisfy this chapter. Open burning permits may also be required by the local public officers, boards, councils, or commissions for safety or other purposes; however, those permits do not satisfy the requirement to obtain an authorization under this chapter.

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 such vehicle shall not intentionally make the system inoperable and shall not remove it except to install a proper replacement.
- (B) No person shall cause or permit the emission of an air contaminant from a motor vehicle including, but not limited to, automobiles and trucks of a density exceeding 30% opacity, except during acceleration and gear shifting for periods not to exceed 5 seconds. Where the presence of uncombined water is the only reason for failure of an emission to comply herewith, this subsection shall not apply.
- (C) Railroad locomotives shall be maintained and operated such as to minimize visible emissions.
- (D) The provisions of this chapter shall not be applicable to the emission of air contaminants from motor exhaust of tractors, graders, earthmovers, or other mobile and portable equipment used exclusively in land clearing, agricultural, or road building operations; provided, however, that prime movers used for the transportation of said 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

No person shall cause or permit the emission of air contaminants, including odors or water vapor and including an air contaminant whose emission is not otherwise prohibited by this Code, if the emission of the air contaminant constitutes air pollution.

CHAPTER 9: CONTROL OF FUGITIVE EMISSIONS

Rule 18.901 Prohibitions

- (A) No person shall cause or permit the handling, transporting, or storage of any material in a manner which allows or may allow unnecessary amounts of air contaminants to become airborne.

- (B) No person shall cause or permit any building or its appurtenances to be constructed, altered, used, repaired, or demolished without applying all such 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

The purpose of this chapter is to generally define 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. Any credible evidence based on sampling, monitoring, and reporting may be used to determine violations of applicable emission limitations.

Rule 18.1002 Air Emissions Sampling

Any stationary source subject to this rule shall be subject to the following requirements:

(A) **Sampling Ports**

To provide any sampling ports, at the request of the Division, required for air emissions sampling, including safe and easy access to such ports.

(B) **Sampling**

To conduct air contaminant emissions sampling, at the request of the Division, to determine the rate, opacity, composition, and/or contaminant concentration of the emissions. All compliance testing shall be done at the expense of the permittee by an independent firm, unless otherwise approved by the Division. Sampling shall not be required for those pollutants 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, all air contaminant emissions sampling shall be performed with the equipment being tested operating at least at 90% of its permitted capacity. Emissions results shall be extrapolated to correlate with 100% of permitted capacity to determine compliance.

(E) **Testing Time Frames**

Any equipment that is to be tested, at the request of the Division, shall be tested 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

The Division shall require that all applicable testing be performed using the methods described in 40 C.F.R. Part 51, Appendix M as of the effective date of the federal final rule published by EPA in the Federal Register on April 2, 2014 (79 FR 18452), 40 C.F.R. Part 60, Appendix A, as of the effective date of the federal final rule published by EPA in the Federal Register on February 27, 2014 (79 FR 11257), 40 C.F.R. Part 61, Appendix B as of the effective date of the federal final rule published by EPA in the Federal Register on October 17, 2000 (65 FR 62161), and 40 C.F.R. Part 63, Appendix A as of the effective date of the federal final rule published by EPA in the Federal Register on December 29, 1992 (57 FR 62002). The Division may approve, at its discretion, alternative sampling methods that are equivalent to the specified methods. The results of such tests shall be submitted to the Division within the time frame and on such forms as required by the Division and federal regulations. The owner or operator of the equipment shall retain the results of such tests 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

Any stationary source subject to this rule 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 as of the effective date of the federal final rule published by EPA in the Federal Register on February 27, 2014 (79 FR 11271), and quality assurance procedures in 40 C.F.R. Part 60, Appendix F as of the effective date of the federal final rule published by EPA in the Federal Register on February 27, 2014 (79 FR 11274), or other methods and conditions that the Division shall approve. Any source listed in a category in 40 C.F.R. Part 51, Appendix P as of the effective date of the federal final rule published by EPA in the Federal Register on November 7, 1986 (51 FR 40675), 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 such 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 the effective date of the federal final rule published by EPA in the Federal Register on November 7, 1986 (51 FR 40675), and any other applicable reporting requirements promulgated by the EPA.

Rule 18.1004 Recordkeeping/Reporting Requirements

Any stationary source subject to this rule shall, upon request of the Division:

- (A) Maintain records on the nature and amounts of contaminants emitted to the air by the equipment in question. All records, including compliance status records and excess emissions measurements, shall be retained for at least five (5) years, and shall be made available to any agent of the Division or the EPA during regular business hours. Reporting periods shall be a twelve (12) month period.
- (B) 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.

Information and data shall be submitted to the Division by a responsible official on such forms and at such 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 during normal business hours.

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 this Code or applicable permit, shall be deemed in violation of said Code or permit and shall be subject to enforcement action. The Director may forego enforcement action for emissions exceeding any limits established by this Code or permit as a direct result of unavoidable upset conditions in the nature of the process, or unavoidable and unforeseeable breakdown of any air pollution control equipment or related operating equipment, or as a direct result of shutdown or start-up of such equipment for necessary scheduled maintenance, provided that all reasonable measures have been taken to immediately minimize or eliminate the excess emissions and the following requirements are met:

- (A) Such occurrence, in the case of unavoidable upset in or breakdown of equipment, shall have been reported to the Director by the end of the next business day after the occurrence.
- (B) The person responsible for such emissions shall submit to the Director, at his or her request, a full report of such occurrence, including a statement of all known causes and of the scheduling and nature of the actions to be taken to minimize or eliminate future occurrences, including, but not limited to, action to reduce the frequency of occurrence of such conditions, to minimize the amount by which said limits are exceeded, and to reduce the length of time for which said limits are exceeded.
- (C) In the case of a shutdown for necessary scheduled maintenance, the intent to shutdown shall be reported to the Director at least twenty-four (24) hours prior to the shutdown; provided, however, that the exception provided by this subsection shall only apply in those cases where maximum reasonable effort has been made to accomplish such 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.
- (D) The person responsible for such emissions shall have submitted to the Division for its approval prior to April 30, 1972, either as a part of its permit application, if a new source, or on a separate application for existing sources, a schedule of those precautionary devices and procedures designed to minimize such occurrences as are described in Rule 18.110(A); said application shall be on such forms and shall contain such information as the Division may reasonably require; said application shall have been approved by the Division and not therefore withdrawn; and said equipment is being operated within the terms of the application as approved, at the time of such occurrence.
- (E) Demonstrates to the satisfaction of the Division that the emissions resulted from:

- (1) equipment malfunction or upset condition and are 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.

And that all reasonable measures have been taken to immediately minimize or eliminate the excess emissions.

Rule 18.1102 Fuel Curtailment

Any person responsible for the operation of any equipment operating in compliance with the provisions of this Code but which can reasonably anticipate periods of non-compliance due to change of fuels, or lack thereof, shall file with the Division, for its approval prior to April 30, 1972, and on such forms and containing such information as the Division may reasonably require, an application which demonstrates to the Division's satisfaction:

- (A) The nature and frequency of such anticipated periods of non-compliance;
- (B) That such alterations in fuel supply are beyond the control of said person, firm, or corporation;
- (C) That said person, firm, or corporation has, or will, incorporate all reasonable steps to minimize the frequency of such periods of non-compliance and to minimize the degree of non-compliance during such periods; and
- (D) That such person, firm, or corporation has, or will, take such measures as may be necessary, to ensure full or substantial compliance with all provisions of the Code during periods of episodic air pollution. Such required measures may include but need not be limited to the maintenance of an emergency fuel supply, and/or provisions for shutdown or curtailment of production.

Rule 18.1103 Conditions of Air Pollution

Except for those persons who have filed for and received Division approval of applications submitted pursuant to the provisions of Rule 18.1101 or Rule 18.1102 hereof, the exceptions granted in said sections shall not be extended and shall be considered inapplicable during the existence of conditions of air pollution, as declared by the Director pursuant to provisions of Rule 18.604 if the affected sources are located in the area in which a condition of air pollution is so declared.

Rule 18.1104 Division's Authority

Nothing provided herein shall be construed to limit the Division's authority to require the installation and maintenance of control equipment as a condition of the granting of a permit or approval of an application.

Rule 18.1105 Emergency Conditions

An “emergency” means any situation arising from the sudden and reasonably unforeseeable events beyond the control of the source, including natural disasters, which situation requires immediate corrective action to restore normal operation, and that causes the 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 such technology-based limitations if the following conditions are met. The affirmative defense of emergency shall demonstrate through properly signed contemporaneous operating logs, or such other relevant evidence that:
 - (1) An emergency occurred and that the permittee can identify the cause(s) of the emergency;
 - (2) The permitted facility 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 must 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 prior written approval is obtained from the Director, no person shall build, erect, install, or use any article, machine, equipment, or other contrivance, the sole purpose of which 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 this Code.

CHAPTER 13: AUTHORITY TO DEAL WITH EXTRAORDINARY CONDITIONS

Rule 18.1301 Authority

Within areas of high source density or higher receptor density and/or within areas affected by levels of air contamination, 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 regulations of general application within said areas. Such requirements may be kept in effect for such period and to such extent the Division deems necessary to adequately deal with such conditions.

Rule 18.1302 Notification and Reporting Requirements

- (A) The owner or operator of any stationary source shall, upon notification from the Division, maintain records of the nature and amounts or emissions from such source and/or any other information as may be deemed necessary by the Division to determine whether such source is in compliance with applicable emission limitations or other control measures.
- (B) The information recorded shall be summarized and reported to the Division on forms furnished by the Division, and shall be submitted within forty-five (45) days after the end of the reporting period. Reporting periods are January 1-June 30 and July 1-December 31, except that the initial reporting period shall commence on the date the Division issued notification of the record-keeping requirements.
- (C) Information recorded by the owner or operator and copies of the summarizing reports submitted to the Division shall be retained by the owner or operator for two (2) years after the date on which the pertinent report is submitted.
- (D) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures and will be available to the public during normal business hours at the Division office in North Little Rock.

CHAPTER 14: PUBLIC INFORMATION AND CONFIDENTIALITY

Rule 18.1401 Public Notification

In the event the Director finds the existence of a condition of air pollution pursuant to Chapter 2 of this Code or of episodic air pollution pursuant to Chapter 2 of this Code, or the Division imposes extraordinary air quality control requirements pursuant to Rule 18.1301, the Director shall summarize the conditions and the actions taken in response thereto and make said summary available to the news media and to the public, and shall continue to publish such summaries at regular intervals throughout the duration of said conditions and the actions.

Rule 18.1402 Confidentiality

Information which constitutes a trade secret shall be held confidential and segregated from the public files of the Division if requested in writing by the permit applicant in accordance with this subsection.

- (A) For purposes of this subsection, “Trade Secret” means any information, including formula, pattern, compilation, program, device, method, technique, process, or rate of production that:
- (1) derives independent economic value (actual or potential) from 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) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (B) In order to establish entitlement to confidentiality, the applicant must submit a sworn affidavit to the Division that is subject to public scrutiny which 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(A)(1) and (2). This affidavit must also recite 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.”

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

- (C) 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 such determination prior to the issuance of any permit or publication of any draft

permit. In the event the Division does not make such determination prior to permit issuance, the information shall be deemed confidential until a request is made. If a third party request to review information claimed as confidential is received before the Division provides its written determination concerning the claim, the Division shall not release such 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 business days before releasing the information, at which time the applicant may choose to supplement its affidavit supporting confidentiality or seek legal recourse.

- (D) For any permit application submitted subject to a claim of trade secret, the applicant shall provide two 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.

CHAPTER 15: EFFECTIVE DATE

Rule 18.1501 Effective Date

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

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**



RULE NO. 18

APPENDIX A

INSIGNIFICANT ACTIVITIES LIST

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 such listing, the Division exempts certain sources or types of sources from the requirements to obtain a permit or plan under this rule. Listing in this part 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 [NSPS], National Emissions Standards for Hazardous Air Pollutants [NESHAPs], or Maximum Achievable Control Technology [MACT]) is not insignificant, even if this activity meets the criteria below.

Group A

The following emission units, operations, or activities must 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 (MMbtu) per hour, provided that the aggregate pollutant specific emissions from all such units listed as insignificant do not exceed five (5) tons per year (tpy) of any combination of HAPs and ten (10) tpy 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 (psia), provided that the aggregate pollutant specific emissions from all such liquid storage tanks listed as insignificant do not exceed five (5) tpy of any combination of HAPs and ten (10) tpy of any other pollutant.
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) psia, provided that the aggregate pollutant specific emissions from all such liquid storage tanks listed as insignificant do not exceed five (5) tpy of any combination of HAPs and ten (10) tpy of any other pollutant.
4. Caustic storage tanks that contain no Volatile Organic Compounds (VOCs).
5. Emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes provided that the aggregate pollutant specific emissions from all such equipment/vents considered insignificant do not exceed five (5) tpy of any combination of HAPs and ten (10) tpy of any other pollutant.
6. Non-commercial water washing operations of empty drums less than or equal to fifty-five (55) gallons with less than three percent of the maximum container volume of material.
7. Welding or cutting equipment related to manufacturing activities that do not result in

aggregate emissions of HAPs in excess of one-tenth (0.1) tpy.

8. Containers of less than or equal to five (5) gallons in capacity that do not emit any detectable VOCs or HAPs when closed. This includes filling, blending, or mixing of the contents of such 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 (lb/gal) VOCs, no hexavalent chromium, and no more than one-tenth (0.1) tpy of all other HAPs.
10. Non-production equipment approved by the Division, used for waste treatability studies or other pollution prevention programs provided that the emissions are less than ten (10) tpy of any pollutant regulated under this rule or less than two (2) tpy of a single HAP¹ or five (5) tpy of any combination of HAPs.
11. Operation of groundwater remediation wells, including emissions from the pumps and collection activities provided that the emissions are less than ten (10) tpy of any pollutant regulated under this rule or less than two (2) tpy of a single HAP or five (5) tpy of any combination of HAPs. This does not include emissions from air-stripping or storage.
12. Emergency use generators, boilers, or other fuel burning equipment that:
 - (A) is of equal or smaller capacity than the primary operating unit;
 - (B) cannot be used in conjunction with the primary operating unit; and
 - (C) does not emit or have the potential to emit regulated air pollutants in excess of the primary operating unit and not operated more than ninety (90) days a year.

This does not apply to generators which provide electricity to the distribution grid.
13. Other activities for which the facility demonstrates that no enforceable permit conditions are necessary to ensure compliance with any applicable law or rule provided that the emissions are less than five (5) tpy of any pollutant regulated under this rule or less than one (1) tpy of a single HAP or two and one-half (2.5) tpy of any combination of HAPs.

¹ 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.

Group B

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

1. Combustion emissions from propulsion of mobile sources and emissions from refueling these sources unless regulated by Title II and required to obtain a permit under Title V of the federal Clean Air Act, as amended. 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 Act.
3. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.
4. Non-commercial food preparation or food preparation at restaurants, cafeterias, or caterers, etc.
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 such activities as 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.²

15. Surface-coating equipment during miscellaneous maintenance and construction activities. This activity specifically does not include any facility 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.³
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 HAPs.⁴
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 VOCs or HAPs.⁵
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, provided 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, provided 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.

² Cleaning and painting activities qualify if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners/operators must get a permit.

³ “Moved by hand” means that it can be moved by one person without assistance of any motorized or non-motorized vehicle, conveyance, or device.

⁴ Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP 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 HAP metals are treated as trivial and listed separately in this appendix.

⁵ 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.

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 VOCs in the adhesive.
29. Lasers used only on metals and other materials which do not emit HAPs 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 pollutant covered by this rule.
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, provided 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 pollutants listed under regulations promulgated pursuant to Section 112(r) of the 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 facility, not including air cleaning units of or such vehicles (i.e. 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 where 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.
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.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**



RULE NO. 18

APPENDIX B

**NATIONAL AMBIENT AIR QUALITY
STANDARDS LIST**

APPENDIX B: NATIONAL AMBIENT AIR QUALITY STANDARDS LIST

The National Ambient Air Quality Standards are listed in the table below.

Pollutant	Final Rule Cite	Final Rule Date	Primary / Secondary	Averaging Time	Level	Form	Applicable Chapters
Carbon Monoxide	76 FR 54294	August 31, 2011	Primary	8-hour	9 ppm	Not to be exceeded more than once per year	All Chapters
				1-hour	35 ppm		All Chapters
Lead	73 FR 66964	November 12, 2008	Primary and secondary	Rolling 3 month average	0.15 $\mu\text{g}/\text{m}^3$	Not to be exceeded	All Chapters
Nitrogen Dioxide	75 FR 6474	February 9, 2010	Primary	1-hour	100 ppb	98th percentile, averaged over 3 years	All Chapters
	61 FR 52852	October 8, 1996	Primary and secondary	Annual	53 ppb	Annual Mean	All Chapters
Ozone	73 FR 16436	March 27, 2008	Primary and secondary	8-hour	0.075 ppm	Annual fourth-highest daily maximum 8-hr concentration, averaged over 3 years	All Chapters
Particle Pollution, $\text{PM}_{2.5}$	78 FR 3085	January 15, 2013	Primary	Annual	12 $\mu\text{g}/\text{m}^3$	Annual mean, averaged over 3 years	All Chapters
	71 FR 61144	October 17, 2006	Secondary	Annual	15 $\mu\text{g}/\text{m}^3$		
			Primary and secondary	24-hour	35 $\mu\text{g}/\text{m}^3$	98th percentile, averaged over 3 years	All Chapters

Pollutant	Final Rule Cite	Final Rule Date	Primary / Secondary	Averaging Time	Level	Form	Applicable Chapters
Particle Pollution, PM ₁₀	71 FR 61144,	October 17, 2006	Primary and secondary	24-hour	150 µg/m ³	Not to be exceeded more than once per year on average over 3 years	All Chapters
Sulfur Dioxide	75 FR 35520	June 22, 2010	Primary	1-hour	75 ppb	99th percentile of 1-hour daily maximum concentrations, averaged over 3 years	All Chapters
	38 FR 25678	September 14, 1973	Secondary	3-hour	0.5 ppm	Not to be exceeded more than once per year	All Chapters

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State
John Thurston
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



For Office Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Pollution Control & Ecology Commission

Department Department of Energy and Environment

Contact Michael McAlister E-mail mcalister@adeq.state.ar.us Phone 501-682-0918

Statutory Authority for Promulgating Rules Act 704 of the 93rd General Assembly

Rule Title: Rule 18, " Arkansas Air Pollution Control Code"

Intended Effective Date
(Check One)

Date

- | | | |
|----------------------------------------------------------------------------------------|---------------------------------------|-------------------|
| <input type="checkbox"/> Emergency (ACA 25-15-204) | Legal Notice Published | _____ |
| <input type="checkbox"/> 10 Days After Filing (ACA 25-15-204) | Final Date for Public Comment | _____ |
| <input type="checkbox"/> Other _____
(Must be more than 10 days after filing date.) | Reviewed by Legislative Council | _____ |
| | Adopted by State Agency | <u>12/03/2021</u> |

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Peter Alberg Peter.Alberg@adeq.state.ar.us 12/15/2021
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Charles Moulton
Signature

501-682-7890 moulton@adeq.state.ar.us
Phone Number E-mail Address

Administrative Law Judge
Title

12/13/2021
Date

2021 DEC 20 AM 10:27

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Classification Number:

Name of Agency:

Division/Department/Office:

Arkansas Pollution Control & Ecology Commiss

Department of Energy and Environment

Contact Person:

Telephone:

Michael McAlister

501-682-0918

Statutory Authority for Promulgating Rules:

Act 704 of the 93rd General Assembly

Title of Rule:

See attached index of rules amended.

Rule Status	Date Adopted by Agency	Effective Date
Amended <input type="button" value="v"/> <small>(Use drop down to select different status)</small>	12/03/2021 <small>MM/DD/YYYY</small>	<input type="radio"/> 10 Days After Filing <input type="radio"/> Other: _____ <small>(if other, specify date)</small>

Rule above is proposed and will be replaced by final version

Financial and/or Fiscal Impact Statement Attached

Certification of Authorized Officer

I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.

Signature: Charles Montoya Date: 12/14/2021

Title: Administrative Law Judge

ARKANSAS POLLUTION CONTROL AND ECOLOGY

COMMISSION RULE AMENDMENTS INDEX

The following rules of the Arkansas Pollution Control and Ecology Commission have been amended following the expedited procedure of Act 704 of the 93rd General Assembly:

- a. Rule 1, "Prevention of Pollution by Oil Filed Waste";
- b. Rule 3, "Licensing of Wastewater Treatment Plant Operators";
- c. Rule 4, "Rule to Require a Disposal Permit for Real Estate Subdivisions in Proximity to Lakes and Streams";
- d. Rule 7, "Civil Penalties";
- e. Rule 9, "Fee Rule";
- f. Rule 11, "Rules for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; Solid Waste Management and Recycling Fund Distribution; and Recycling Grant Programs";
- g. Rule 12, "Storage Tanks";
- h. Rule 15, "Arkansas Open-Cut Mining and Land Reclamation";
- i. Rule 17, "Arkansas Underground Injection Control Code";
- j. Rule 18, "Arkansas Air Pollution Control Code";
- k. Rule 20, "The Arkansas Surface Coal Mining and Reclamation Code";
- l. Rule 21, "Arkansas Asbestos Abatement Rule";
- m. Rule 22, "Solid Waste Management Rules";

- n. Rule 26, “Rules of the Arkansas Operating Air Permit Program”;
- o. Rule 28, “Rule of the State of Arkansas for County Recycling Programs”;
- p. Rule 29, “Arkansas Brownfield Redevelopment”;
- q. Rule 30, “Arkansas Remedial Action Trust Fund Hazardous Substances Site Priority List”;
- r. Rule 31, “Nonattainment New Source Review Requirements”;
- s. Rule 32, “Environmental Professional Certification”;
- t. Rule 33, “Motor Vehicle Racing Facility Rules”;
- u. Rule 34, “State Water Permit Rule”; and
- v. Rule 36, “Tire Accountability Program”.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT: Approval
of Amendments to APC &
EC Rules**

Docket No. 21-003-MISC

MINUTE ORDER NO. 21- 18

Pursuant to Act 704 of the 93rd General Assembly, the Arkansas Pollution Control and Ecology Commission hereby grants and approves the Division of Environmental Quality's Motion to Approve Rule Amendments, and approves the amendments to rules which are specifically set forth and contained in the mark-up drafts of rules provided to the Commission with the above-referenced motion; that further, the Commission orders that the existing effective date of each rule shall remain the same and that no substantive changes to these rules are promulgated or intended by these amendments.

**THIS 3RD DAY OF DECEMBER, 2021, BY ORDER OF THE ARKANSAS
POLLUTION CONTROL AND ECOLOGY COMMISSION.**

COMMISSIONERS:

SUA S. Ausbrooks
L.B L. Bengal
CC C. Colclasure
JSF J. Fox
MMS M. Goggans
R. McMullen R. McMullen

D.A by M D. Melton
R.M R. Moss, Jr.
RR R. Reynolds
R. Roper R. Roper
D. Vandergriff D. Vandergriff
WWW W. Ward

CC by M SUBMITTED BY: Michael McAlister DATE PASSED: 12/03/21
R. Roper, Chair