

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04 and Act 143 of 2007: Regulatory Flexibility**

Department Arkansas Department of Environmental Quality

Divisions Air Division

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Date January 14, 2011

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Title or Subject: Arkansas Pollution Control and Ecology Commission Regulation Number 18

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

The changes to Regulation Number 18 are being proposed in response to the United States Environmental Protection Agency's ("EPA") June 3, 2010, Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule ("Tailoring Rule"). The Tailoring Rule requires that greenhouse gases be subject to regulation under the Clean Air Act. Carbon dioxide is one of the gases listed in the Tailoring Rule as a greenhouse gas. The Arkansas Pollution Control and Ecology Commission's ("Commission") Regulation Number 18 currently excludes carbon dioxide from being an air contaminant. For state regulations to be consistent with EPA's Tailoring Rule, the exclusion of carbon dioxide from air contaminant needs to be removed. Because making this change will automatically cause carbon dioxide to become subject to permitting, changes are also being proposed to Chapter 3 of Regulation Number 18 to prevent greenhouse gases from triggering the need for a permit unless that permit would be required under Regulation Number 19 or Regulation Number 26. Additionally, the term "air pollutant" has been included in the definition of "air contaminant," and greenhouse gas emissions at levels under 75,000 tons per year are being proposed to be added as "De Minimis" so that any increase of greenhouse gases under this level will not require a major permit modification. Changes made to Appendix A of Regulation Number 18 seek to clarify that activities emitting less than 75,000 tons per year of carbon dioxide emissions are included in the Group A Insignificant Activities List for Appendix A, Regulation Number 18. Making these changes will maintain consistency between Federal air pollution control programs and the Commission's regulations governing air pollution in Arkansas, as well as maintain consistency across air pollution regulations.

2. What are the top three benefits of the proposed rule or regulation?

1) Removing the exclusion of carbon dioxide from being an air contaminant aligns the definition in the Commission's regulations with the recent federal regulatory developments on greenhouse gases.

2) The addition of greenhouse gas emissions at levels under 75,000 tons per year to De Minimis threshold levels will prevent trivial increases of greenhouse gases from requiring a major permit modification.

3) Removing the exclusion of carbon dioxide from being an air contaminant will allow the Commission to incorporate the necessary regulatory requirements to implement EPA's Tailoring Rule within Regulations Number 19 and Number 26 while maintaining consistency between these regulations.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Taking no action on this amendment would cause the Commission's regulations regarding air contaminants to be misaligned with the EPA's Tailoring Rule that defines greenhouse gases as subject to

regulation. This difference in state and federal regulations could cause confusion for the regulated community and will present conflicts between state and federal regulations. Not acting on these amendments would cause ADEQ to lose permitting authority, permitting authority to default to the EPA, or significant delays for businesses applying for operating permits. Lastly, not making these changes could lead to the withholding of federal funding for the administration of pollution control programs delegated to the state, and other federal sanctions.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

There are no known market-based alternatives or voluntary standards that can be considered in place of the proposed amendments to Regulation Number 18.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing recordkeeping, auditing and inspecting associated with this new rule or regulation.

The costs of the proposed amendments to Regulation Number 18 to the state government are unknown at this time.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

The proposed amendments will not create any new compliance requirements for small businesses.

7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.

The proposed amendments will not create any barriers to entry.

8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.

The proposed amendments will not create any new compliance requirements for small businesses.

9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.

The proposed amendments contain a threshold for which only the requirements of the regulation apply. The threshold is set to only affect the largest emitters of this pollutant.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

The proposed amendments do not create any new compliance requirements for small businesses. Accordingly, there are no changes that small businesses will need to implement.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

EPA has promulgated the final Tailoring Rule and established all associated compliance dates and emission thresholds. The proposed amendments are designed to be no more and no less stringent than the Tailoring Rule. All states maintaining control of their delegated air pollution control programs will be required to comply with program revisions that are no less strict than the Tailoring Rule.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

ADEQ has not received any input from small businesses or small business advocates at this time.