

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 796

5 By: Senator Caldwell
6 By: Representative Wardlaw
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For An Act To Be Entitled

10 AN ACT TO AMEND THE LAWS PERTAINING TO AIR POLLUTION;
11 TO CLARIFY THE RESPONSIBILITIES OF THE ARKANSAS
12 DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE ARKANSAS
13 POLLUTION CONTROL AND EQUALITY COMMISSION WITH
14 RESPECT TO THE ADOPTION OF STATE IMPLEMENTATION
15 PLANS; AND FOR OTHER PURPOSES.
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Subtitle

18 TO CLARIFY THE RESPONSIBILITIES OF THE
19 ARKANSAS DEPARTMENT OF ENVIRONMENTAL
20 QUALITY AND THE ARKANSAS POLLUTION
21 CONTROL AND EQUALITY COMMISSION WITH
22 RESPECT TO THE ADOPTION OF STATE
23 IMPLEMENTATION PLANS.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 8-4-303, concerning the definitions to be
30 used in relation to air pollution, is amended to add three additional
31 subdivisions to read as follows:

32 (11) "Major source construction" means the construction of a new
33 major stationary source or a major modification of an existing major
34 stationary source as defined in 40 C.F.R. Part 51.166, as it existed on July
35 1, 2012;

36 (12) "National Ambient Air Quality Standard" means an ambient



1 air quality standard established under Title I of the Clean Air Act, 42
2 U.S.C. § 7401 et seq.; and

3 (13) “State implementation plan” means a plan that specifies
4 measures to be used in the implementation of the state’s duties under the
5 Clean Air Act, 42 U.S.C. § 7401 et seq., for the implementation and
6 maintenance of a National Ambient Air Quality Standard.

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8 SECTION 2. Arkansas Code § 8-4-311(a), concerning the powers of the
9 Arkansas Department of Environmental Quality, is amended to add an additional
10 subdivision to read as follows:

11 (13) Develop and implement state implementation plans under § 8-
12 4-317.

13
14 SECTION 3. Arkansas Code § 8-4-311(b), concerning the powers of the
15 Arkansas Pollution Control and Ecology Commission, is amended to add an
16 additional subdivision to read as follows:

17 (12) In the case of a state implementation plan, provide public
18 notice, an opportunity to comment, and a hearing as required by state law and
19 the Clean Air Act, 42 U.S.C. § 7401 et seq.

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21 SECTION 4. Arkansas Code Title 8, Chapter 4, Subchapter 3, is amended
22 to add an additional section to read as follows:

23 8-4-317. State implementation plans.

24 (a)(1) The Department shall develop state implementation plans for the
25 attainment and maintenance of any applicable National Ambient Air Quality
26 Standard.

27 (2) A state implementation plan shall include the measures
28 necessary for the attainment and maintenance of the National Ambient Air
29 Quality Standard in each air quality control region or portion of an air
30 quality control region within the state.

31 (3) In developing and implementing a state implementation plan,
32 the Department shall consider and take into account the factors specified in
33 § 8-4-312 and the Clean Air Act, 42 U.S.C. § 7401 et seq., as applicable.

34 (b)(1) Except with regard to permitting decisions for major source
35 construction under Part C of Title I of the Clean Air Act, 42 U.S.C. § 7401
36 et seq., National Ambient Air Quality Standards are not effective until

1 adopted by the Arkansas Pollution Control and Ecology Commission under § 8-4-
2 311(b).

3 (2) Except as required for the permitting of major source
4 construction under Part C of Title I of the Clean Air Act, 42 U.S.C. § 7401
5 et seq., or otherwise voluntarily proposed and agreed to by the owner or
6 operator of a stationary source, the Department shall not mandate any
7 stationary source measures for the attainment and maintenance of a National
8 Ambient Air Quality Standard until the applicable state implementation plan
9 is approved by the United States Environmental Protection Agency.

10 (3) Unless otherwise voluntarily proposed and agreed to by the
11 owner or operator of a stationary source, the Department shall not require or
12 consider air dispersion modeling of an air contaminant for which a National
13 Ambient Air Quality Standard has been established in air permitting decisions
14 for stationary sources except:

15 (A) As required for the permitting of major source
16 construction under Part C of Title I of the Clean Air Act, 42 U.S.C. § 7401
17 et seq., and regulations promulgated under the Clean Air Act, 42 U.S.C. §
18 7401 et seq.;

19 (B) If necessary in the judgment of the Department, with
20 respect to permitting of a temporary source under 42 U.S.C. § 7661c; or

21 (C) Under a pollutant-specific or facility-specific
22 obligation required in an applicable state implementation plan approved by
23 the United States Environmental Protection Agency.

24 (c) This section does not prohibit the Department from conducting and
25 considering regional airshed dispersion modeling as necessary for the
26 development of the applicable state implementation plan.

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28 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas that the current policy of the
30 Arkansas Department of Environmental Quality of implementing the National
31 Ambient Air Quality Standards primarily through stationary source permitting,
32 as opposed to state implementation plans, is more stringent than necessary
33 under federal law and is at odds with the practices of other states in the
34 region, thereby discouraging the expenditure of capital improvement funds for
35 environmental improvement projects within the State of Arkansas; and that
36 this act is immediately necessary to align the policies for implementation of

1 National Ambient Air Quality Standards and the development of state
2 implementation plans to those of the federal government and other states.
3 Therefore, an emergency is declared to exist, and this act being immediately
4 necessary for the preservation of the public peace, health, and safety shall
5 become effective on:

6 (1) The date of its approval by the Governor;

7 (2) If the bill is neither approved nor vetoed by the Governor,
8 the expiration of the period of time during which the Governor may veto the
9 bill; or

10 (3) If the bill is vetoed by the Governor and the veto is
11 overridden, the date the last house overrides the veto.

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