

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 19, REGULATIONS OF THE) DOCKET NO. 11-002-R
ARKANSAS PLAN OF IMPLEMENTATION FOR)
AIR POLLUTION CONTROL)**

**STATEMENT OF BASIS AND PURPOSE
FOR REGULATION NO. 19, REGULATIONS OF THE ARKANSAS PLAN OF
IMPLEMENTATION FOR AIR POLLUTION CONTROL**

The Arkansas Pollution Control and Ecology Commission (the “Commission”) is given the power and responsibility to promulgate rules and regulations. Pursuant to Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “Department”).

On January 14, 2011, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. The revisions to the Regulations of the Arkansas Plan of Implementation for Air Pollution Control are the result of federal regulatory changes enacted or promulgated since June 3, 2010. The proposed amendments to Regulation No. 19 were precipitated by the following:

Prevention of Significant Deterioration and Title V Greenhouse Gas (“GHG”) Tailoring Rule, *75 FR 31514, June 3, 2010*; Finding of Substantial Inadequacy and SIP Call, *75 FR 77698, December 13, 2010*.

Amendment of Regulation No. 19 is necessary in order for the regulation conform to statutory language affected by the above-referenced federal rules, and to incorporate changes into Arkansas’s air permitting program related to the regulation of GHGs.

The areas addressed by the amendments adopted by the Commission are:

1. Legislative and Federal Regulatory Changes.

- (A) addition of definitions in Chapter 2 for “carbon dioxide equivalent emissions” (CO₂e) and “greenhouse gases;”
- (B) revision of the definition of “Federally Regulated Air Pollutant” (“FRAP”) to clarify that GHGs will only be considered FRAPs if from a stationary source emitting or having the potential to emit 75,000 tons per year (“tpy”) CO₂e emissions or more when the source is regulated under Chapter 9 (“Prevention of Significant Deterioration”) of Regulation No. 19; and
- (C) clarification of permitting requirements applying to preconstruction permits for new facilities that emit at least 100,000 tpy of GHGs.

2. Changes proposed by the Department.

- (A) clarification that the intent of the GHG provisions within state regulations shall not expand the permitting scope in Regulation No.19 beyond that addressed in the Federal GHG Tailoring Rule and to allow for sources to request synthetic minor status based on their GHG emissions;
- (B) addition of language to ensure GHG permitted emission increases of less than 75,000 tpy will be processed as De Minimis permit changes;
- (C) addition of a provision which will stay revisions to Regulation No. 19 based on the Tailoring Rule, should that federal rule be stayed or invalidated through federal judicial or legislative action;
- (D) clarification that activities emitting less than 75,000 tpy of CO₂e or less than five (5) tpy of any other air pollutant regulated under Regulation No. 19 are included in the Group A Insignificant Activities List for Appendix A; and
- (E) correction of typographical errors.

The Commission finds that the proposed revisions to Regulation No. 19 facilitate implementation of the substantive statutes administered by the Department regarding GHG emissions. These rules are in the public interest, and are necessary to ensure compliance with federal law.

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