

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

**IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 19, REGULATIONS OF THE ) DOCKET NO. 12 – 010 – 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 (“Commission”) is given the authority 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 (“ADEQ” or “Department”).

On September 14, 2012, 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 Regulation No. 19 are necessary to implement the State air permitting program related to Prevention of Significant Deterioration (“PSD”) and Major New Source Review (“NSR”). The Environmental Protection Agency (“EPA”) published several final rules in the Federal Register (“Fed. Reg.”) promulgating the following requirements:

- May 16, 2008, EPA finalized regulations to implement the NSR program for fine particulate matter (PM<sub>2.5</sub>) (73 Fed. Reg. 28321, May 16, 2008).
- October 10, 2010, EPA amended requirements for PM<sub>2.5</sub> under PSD program by adding maximum allowable increases in ambient pollutant concentrations (“increments”). Additionally, EPA advised that the Arkansas PSD program must incorporate by reference the supporting definition changes to Major Source Baseline Date at 40 CFR 52.21(b)(14)(i), Minor Source Baseline at 40 CFR 52.21(b)(14)(ii) and related provisions at 40 CFR 52.21(b)(14)(iii) and Baseline Area at 40 CFR 52.21(b)(15). EPA further advised that the Source Impact Analysis Requirements at

40 CFR 52.21(k)(1), and the Requirements for Sources Impacting Federal Class I areas at 40 CFR 52.21(p) are also required elements involving PM<sub>2.5</sub> increments. In addition, EPA advised that provisions at 40 CFR 52.21(i)(5)(ii) and 40 CFR 52.21(i)(5)(iii) must be incorporated by reference as of May 16, 2008 for administration of the PSD permitting program.

- October 17, 2006: the EPA revised the 24-hour PM<sub>2.5</sub> primary and secondary National Ambient Air Quality Standards (NAAQS) from 65 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 35 $\mu\text{g}/\text{m}^3$ , revoked the annual standard for PM<sub>10</sub>, and retained the 24-hour primary and secondary NAAQS standards of 150  $\mu\text{g}/\text{m}^3$  for PM<sub>10</sub> (71 Fed. Reg. 61144, Oct 17, 2006).
- March 27, 2008: EPA revised the 8-hour ozone NAAQS standard from 0.08 parts per million (ppm) to 0.075 ppm (73 Fed. Reg. 16436, Mar 27, 2008).
- November 12, 2008: EPA revised the lead NAAQS standard from a calendar quarter average of 1.5 $\mu\text{g}/\text{m}^3$  to a rolling three-month average of 0.15 $\mu\text{g}/\text{m}^3$  (73 Fed. Reg. 66964, Nov 12, 2008).
- June 22, 2010: EPA retained the secondary 3-hour NAAQS standard of 0.5 ppm for sulfur dioxide, and added a 1-hour standard of 75 ppb (75 Fed. Reg. 35520, Jun 22, 2010).
- February 9, 2010: EPA added for nitrogen dioxide a primary 1-hour NAAQS standard of 100 ppb and retained the primary and secondary annual standards of 53 ppb (75 Fed. Reg. 6474, Feb 9, 2010).

Adoption of the proposed revisions to Regulation No. 19 will enable the Department to submit an adequate State Implementation Plan (“SIP”) to EPA and will ensure that the State maintains authority to administer the PSD/Major NSR air permitting program, thereby avoiding a Federal Implementation Plan and PSD/Major NSR air permitting program implemented by EPA.

Amendment of Regulation No. 19 is necessary in order to incorporate the above-referenced federal requirements into Arkansas’s air pollution permitting program.

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

## 1. Legislative and Federal Regulatory Changes

- A. Revision of the existing definitions of “Particulate Matter Emissions,” “PM<sub>2.5</sub>,” “PM<sub>10</sub> emissions,” and “National Ambient Air Quality Standards,” and addition of a definition for “PM<sub>2.5</sub> emissions” under Chapter 2;
- B. Revision of the definition of “Regulated NSR Pollutant” at Reg.19.903(B) and addition of a definition for “subject to regulation” at Reg. 19.903(C);
- C. Updating incorporation by reference dates for:
  - i. 40 CFR §§ 52.21(b)(14)(i), (14)(ii), (15), (c), (k)(1), and (p) at Reg.19.904 and for 40 CFR § 51.301 at Reg.19.903(C) to October 20, 2010, which include necessary elements of the PSD program, and
  - ii. 40 CFR § 52.21(b)(23), 40 CFR 52.21(i)(5)(ii), and 40 CFR 52.21(i)(5)(iii) at Reg.19.904(A) to May 16, 2008, which include EPA’s required significant emission rates for PM<sub>2.5</sub>; and
- D. Incorporation by reference of 40 CFR 52.21(b)(14)(iii) as of October 20, 2010, and of 40 CFR 52.21(i)(5)(ii) and 40 CFR 52.21(i)(5)(iii) as of May 16, 2008 at Reg.19.904(A), which include provisions necessary to administer the PSD permitting program.

## 2. Changes proposed by the Department

Substantive changes proposed by the Department related to the inclusion or clarification of federal regulatory changes within Arkansas’s existing regulations include:

- A. Deletion of “which are in effect as of the effective date of this regulation” and clarification of applicability by addition of a reference to Chapter 9 at Reg.19.502.

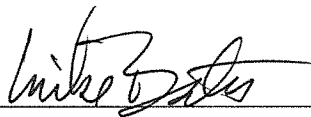
Minor changes were also made for clarification and consistency purposes, or to update typographical errors within Regulation No. 19. Revisions made for this purpose included:

- A. Addition of Appendix B, a table showing the National Ambient Air Quality Standards added a column to clarify Chapter applicability;
- B. Deletion of “as listed in 40 CFR § 52.21” at Reg.19.502(A), because the NAAQS are not listed in that section of the CFR as the regulation originally stated, and adding “as defined herein;

- C. Added another item to Reg. No. 19.502(B) “Any ambient air increment pursuant to Chapter 9 of this regulation;” and previous items (B) and (C), became (C) and (D); and
- D. Correction of the initiation date of the rulemaking, listed at Reg. No. 19.903(B)(6), to “September 28, 2012.”

The Commission finds that the proposed revisions to Regulation No. 19 facilitate implementation of the substantive statutes administered by the Department regarding air pollution control. These rules are in the public interest and are necessary to ensure that Regulation No. 19 is compliant with federal law.

Prepared by:  
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By: 

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