

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL
AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY: Arkansas Department of Environmental Quality
DIVISION: Air Division
DIVISION DIRECTOR: Mike Bates
CONTACT PERSON: William A. Eckert, representing Third Party Petitioners
Entergy Arkansas, Inc., the Arkansas Electric Cooperative
Corporation, the Conway Corporation, City Water and
Light Plant of the City of Jonesboro, and the West
Memphis Utility Commission
ADDRESS: 111 Center Street, Suite 1900, Little Rock, AR 72201
PHONE NO.: 501-379-1712 FAX NO.: 501-379-1701
E-MAIL: aeckert@qgtb.com

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

-
- 1. What is the short title of this rule? Arkansas Pollution Control and Ecology Commission Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control.
 - 2. What is the subject of the proposed rule? Amend Regulation No. 19 to establish a compliance date for installation of emission control equipment that is consistent with the compliance date based on EPA's approval of the Arkansas Regional Haze State Implementation Plan.
 - 3. Is this rule required to comply with federal statute or regulations?

Yes _____ No

If yes, please provide the federal regulation and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes _____ No

If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure? Yes _____ No _____

5. Is this a new rule? Yes _____ No If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

See Attachments A and B.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

A.C.A. § 8-4-311(b)(1)(A) *et seq.* (specifically Act 472 of the Acts of Arkansas 1949, as amended)

7. What is the purpose of this proposed rule? Why is it necessary?

Regulation No. 19 requires industries in Arkansas to install emission controls to comply with EPA's Clean Air Visibility Rule. This regulation requires industries in Arkansas to install controls by September 28, 2013, or within five (5) years of EPA's approval of the Arkansas State Implementation Plan, whichever comes

first. EPA has yet to approve the State Implementation Plan, requiring Entergy to initiate financial investment estimated at approximately 630 million dollars with overall project cost to exceed one billion dollars. This financial investment is at risk in the event EPA disapproves the State Implementation Plan or mandates the implementation of different emission control technology. This rule change would establish a compliance date consistent with the five (5) year period from EPA's approval of the Arkansas State Implementation Plan and eliminate the financial risk created by the current conflicting deadlines for implementation of emission controls.

8. Will a public hearing be held on this proposed rule? Yes x No

If yes, please complete the following:

Date: December 10, 2008

Time: To Be Announced

Place: Arkansas Department of Environmental Quality

9. When does the public comment period expire for permanent promulgation?

The period for receiving all written comments by the public shall conclude ten (10) business days after the date of the public hearing pursuant to Arkansas Pollution Control and Ecology Regulation No. 8, Part 3, Section 2.2.3, unless an extension of time is granted. The public hearing is scheduled for December 10, 2008. Thus, the public comment period will expire December 22, 2008.

10. What is the proposed effective date of this proposed rule?

The regulation becomes effective twenty (20) days after filing of the final regulation as adopted by the Commission with the Secretary of State.

11. Do you expect this rule to be controversial? Yes No x

If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Entergy Arkansas, Inc. (for)
Arkansas Environmental Federation (for)
Arkansas Electric Cooperative Corp. (for)
Domtar Industries (for)
SWEPCO (for)

Reg 19.1504 Facilities Subject-to-BART

(A) The following sources are subject-to-BART:

AFIN	Facility Name	Source #	Source Name
74-00024	Arkansas Electric Cooperative Corporation Carl E Bailey Generating Station	SN-01	Boiler
52-00055	Arkansas Electric Cooperative Corporation John L. McClellan Generating Station	SN-01	Boiler
41-00002	Domtar Industries Inc. ,Ashdown Mill	SN-03	#1 Power Boiler
		SN-05	#2 Power Boiler
30-00011	Entergy Arkansas, Inc. – Lake Catherine Plant	SN-03	Unit 4 Boiler
35-00110	Entergy Arkansas, Inc. – White Bluff	SN-01	Unit 1 Boiler
		SN-02	Unit 2 Boiler
		SN-05	Auxiliary Boiler
04-00107	SWEPCO Flint Creek Power Plant	SN-01	Boiler

(B) ~~Each source subject to BART shall install and operate BART as expeditiously as practicable, but in no event later than 6 years after the effective date of this regulation or 5 years after EPA approval of the Arkansas Regional Haze State Implementation Plan, whichever comes first.~~

Each source subject-to-BART shall install and operate BART no later than five (5) years after EPA approval of the Arkansas Regional Haze State Implementation Plan.

(C) Each source subject-to-BART shall maintain the control equipment required by this chapter and establish procedures to ensure such equipment is properly operated and maintained.

Reg. 19.1505 BART Requirements

(A) On or before the compliance date required under section 19.15004(B), SWEPCO Flint Creek Power Plant, SN-01 shall comply with BART by meeting the following emission limits:

ATTACHMENT "A"

Summary of Proposed Amendment to Regulation No. 19

In 2007, The Arkansas Pollution Control and Ecology Commission ("Commission") approved the revisions to Commission regulations for the installation of emission control technology as required by the Environmental Protection Agency's ("EPA") Regional Haze Rule, including a compliance date of September 28, 2013. This compliance date is prior to the compliance date required by the EPA Regional Haze Rule, which requires that states meet their obligations within five (5) years of EPA approval of the Arkansas State Implementation Plan ("SIP"). Regulation No. 19 currently requires Arkansas industries to install Best Available Retrofit Technology ("BART") emission controls by September 28, 2013, or within five (5) years of EPA's approval of the SIP, whichever comes first.

As of this date, EPA has not yet approved the Arkansas SIP, yet Petitioners are compelled to move forward with engineering and contract commitments to complete control technology installations by September 28, 2013. The possibility of EPA requiring changes to the SIP prior to approval creates an unnecessary risk of financial loss due to unanticipated changes in technical requirements. The proposed rule change to Regulation No. 19 is to revise the compliance date to be consistent with EPA's Regional Haze Rule, which requires installation within five (5) years after EPA's approval of the Arkansas Regional Haze SIP.