

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 18 ) DOCKET NO. 14-009-R

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
STATEMENT OF BASIS AND PURPOSE

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Under 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).

This rulemaking was initiated to incorporate the revised 2012 federal National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM<sub>2.5</sub>). On January 15, 2013, the United States Environmental Protection Agency (EPA) published a final rule in the Federal Register that promulgated revised primary standards for fine particles and revised the annual PM<sub>2.5</sub> standard by lowering the level to 12 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). EPA's revised primary standard provides increased protection against health effects associated with long- and short-term exposures. In the same rule, EPA retained the 24-hour PM<sub>2.5</sub> standard at a level of 35  $\mu\text{g}/\text{m}^3$ . (78 FR 3086, January 15, 2013). During the public comment period, ADEQ received comments on when an analysis would be required to evaluate impacts on the NAAQS during the permitting process. Additionally, ADEQ accepted comment on requirements for such an analysis, when required.

The proposed regulatory amendments also included:

- i. Updates to the definition of "National Ambient Air Quality Standards" in Chapter 2 to match the federal definition and to add the federal definition for PM<sub>2.5</sub>, as published in the Federal Register on January 15, 2013. (78 FR 3086, January 15, 2013.) Based on this final rule, ADEQ also proposed to include a general applicability limit for PM<sub>2.5</sub> and *De Minimis*

emissions values, and to include a concentration threshold for *De Minimis* PM<sub>2.5</sub> air quality impact;

- ii. Changes to Chapter 3 to add two (2) federal exemptions to the special applicability list (72 FR 38864, July 16, 2007; 73 FR 1916, January 10, 2008);
- iii. Inclusion of Federal Register publication dates for several items which were previously dated with arbitrary dates having no reference to federal or state law (e.g., the initiation date of the last proposed revision). This revision will help clarify the regulation so users may identify and verify against the federal regulation associated with a specific condition. Revisions proposed for this purpose are located:
  - Within the definition of “PM<sub>2.5</sub>,” October 17, 2006 (71 FR 61226)
  - Within the definition of “PM<sub>10</sub>,” August 7, 1987 (52 FR 29467)
  - At 18.1002(F):
    - 40 C.F.R. Part 51, Appendix M: April 2, 2014 (79 FR 18452)
    - 40 C.F.R. Part 60, Appendix A: February 27, 2014 (79 FR 11257)
    - 40 C.F.R. Part 61, Appendix B: October 17, 2000 (65 FR 62161)
    - 40 C.F.R. Part 63, Appendix A: December 29, 1992 (57 FR 62002)
  - At 18.1003(A):
    - 40 C.F.R. Part 60 Appendix B: February 27, 2014 (79 FR 11271)
    - 40 C.F.R. Part 60 Appendix F: February 27, 2014 (79 FR 11274)
    - 40 C.F.R. Part 51 Appendix P: November 7, 1986 (51 FR 40675)
  - At 18.1003(B): 40 C.F.R. Part 51 Appendix P: November 7, 1986 (51 FR 40675);
- iv. Changes to Chapter 2 to include a definition for “Emission increase” consistent with the definition currently proposed for Regulation No. 19;

- v. Changes to Reg. 18.307(C)(2), *De Minimis* Changes, to clarify the section by including reference to the proposed definition of “Emission increase,” and by removing redundant phrasing;
- vi. Changes to Appendix A, within the introduction for Group A, to match permitting protocol. Also changes were proposed to Group B number 76, to clarify the existing language by adding references to federal rules;
- vii. Revisions to the current federal National Ambient Air Quality Standards List as Appendix B (38 FR 25678, September 14, 1973; 61 FR 52852, October 8, 1996; 71 FR 61144, October 17, 2006; 73 FR 16436, March 27, 2008; 73 FR 66964, November 12, 2008; 75 FR 6474, February 9, 2010; 75 FR 35520, June 22, 2010; 76 FR 54294, August 31, 2011; 78 FR 3085, January 15, 2013); and
- viii. Additional minor changes for clarification and consistency such as correction of typographical errors and adding non-substantive changes throughout Regulation No. 18.

On November 21, 2014, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 18 to incorporate these changes. At its regularly scheduled meeting on December 5, 2014, the Commission initiated this rulemaking on Regulation 18. A public hearing was held in North Little Rock, Arkansas on January 12, 2015. During the public hearing, the public comment period was extended to February 17, 2015. Due to comments received, the following revisions were made to the proposed regulatory amendments:

- i. Proposed definitions of PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions were included in Chapter 2, Definitions, Regulation No. 18, to mirror those definitions proposed for Regulation No. 19.
- ii. Proposed revision to Reg. 18.307(C)(2) was amended to maintain uniformity and consistency between Regulation Nos. 18 and 19, therefore, the word “modification” was replaced with “change”.
- iii. Removed the definition of “Emission increase” from Chapter 2 and included language in


Reg. 18.307(C)(2) to clarify that, for the purposes of determining whether a change can be considered De Minimis, emission increases are based on the differences between the sum of the proposed permitted rates for all emission units and the sum of previously permitted emission rates for all units. ADEQ noted in its response to comments that no credit is allowed for emission units that have not actually operated or operated as permitted, emission reductions required by other rules or under an enforcement order, or old emission sources removed from service prior to initiation of this rulemaking on December 5, 2014.

These rules are in the public interest, and are necessary to ensure compliance with both state and federal law.

Respectfully submitted,

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By:

  
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