

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 19, REGULATIONS OF THE) DOCKET NO. 08-____-R
ARKANSAS PLAN OF IMPLEMENTATION)
FOR AIR POLLUTION CONTROL)

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NUMBER 19, REGULATIONS OF THE ARKANSAS PLAN OF
IMPLEMENTATION FOR AIR POLLUTION CONTROL

The Arkansas Department of Environmental Quality (hereinafter “ADEQ” or “the Department”), for its Petition to Initiate Rulemaking to Amend Regulation Number 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, states:

1. The Department requests that the Commission Initiate Rulemaking to amend Regulation Number 19, the Regulations of the Arkansas Plan of Implementation for Air Pollution Control to amend Chapter 14 to fulfill the State’s obligation as part of the Clean Air Interstate Rule (CAIR). CAIR controls the interstate transport of NO_x and SO₂ emitted by fossil-fuel fired Electric Generating Units (EGUs) through the use of a cap and trade program. October 19, 2007, the United States Environmental Protection Agency (EPA) modified portions of CAIR that were previously incorporated by reference into Chapter 14 of Regulation 19. The Department proposes this rulemaking primarily to make the provisions of Regulation Number 19 to conform to this change. EPA has revised the calculation methodology for the efficiency standard in the cogeneration unit definition to exclude energy input from biomass making it more likely that units co-firing biomass will be able to meet the efficiency standard and qualify for an exemption to CAIR. This change is required to be made in all CAIR affected states by January 1, 2009.
2. The proposed regulatory amendments involve the following:
 - (a) Updating Section 19.1401, the incorporation of 40 CFR 96 Subparts AAAA-HHHH by reference, to include changes made by EPA on October 19, 2007. The changes include a new definition of “biomass,” modifying the definitions of

“cogeneration unit” and “total energy input” and clarifying the definition of “permitting authority.”

- (b) Correcting the abbreviation “MW” (megawatt) to “MWh” (megawatt hour) in Section 19.1404 to match the one used in sections that were incorporated by reference.

3. The proposed changes to Regulation Number 19 do not require an economic impact/environmental analysis because the provisions of Chapter 14 of Regulation Number 19 incorporate federal requirements.
4. The proposed changes to Regulation Number 19 are currently under review by the Arkansas Economic Development Commission (AEDC). The Department anticipates that AEDC will determine that the amendments are exempt from the requirements of Act 143 of 2007.
5. Mike Bates or Elizabeth Sartain from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of the regulation showing the proposed changes is attached as Exhibit “A” and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as Exhibit “B”, and a copy of a financial impact statement for the proposed revision is attached as Exhibit “C”, both of which are incorporated by reference. An analysis of the impact to small business required pursuant to Act 143 of 2007 (formerly Executive Order 05-04), is attached as Exhibit “D” and hereby incorporated by reference. A copy of the Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit “E” and is hereby incorporated by reference. A proposed minute order is attached as Exhibit “F” and is hereby incorporated by reference.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation Number 19.

Respectfully Submitted,
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ENVIRONMENTAL QUALITY
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