

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 19, REGULATIONS OF THE DOCKET NO. 08-004-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 May 22, 2008, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. Regulation 19 is applicable to any stationary source which has the potential to emit any federally regulated air pollutant equal to or in excess of the threshold for a major source and is federally enforceable.

ADEQ proposes revisions to Regulation 19 by revising Chapter 14 to address the State's obligations as part of the Clean Air Interstate Rule (CAIR). Chapter 14 of Regulation 19, CAIR NOx Ozone Season Trading Program General Provisions, controls the interstate transport of NOx emitted by fossil-fuel fired Electric Generating Units (EGUs) by creating an interstate cap and trade program. Much of the federal program was incorporated by reference. This action will incorporate changes made by the United States Environmental Protection Agency (EPA) and correct an abbreviation.

October 19, 2007, the EPA modified portions of CAIR that were previously incorporated by reference into Chapter 14 of Regulation 19. The Department is proposing this rulemaking primarily so the provisions of Regulation Number 19 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. The changes also include a new definition of "biomass," modifying the definitions of "cogeneration unit" and "total energy input" and clarifying the definition of "permitting authority." These changes were required to be made in all CAIR affected states by January 1, 2009; however, uncertainty caused by federal court actions delayed ADEQ's attempt to finalize incorporation of these changes.

In addition to this change, the abbreviation "MW" (megawatt), that is used in Reg. 19.1404, will be corrected to "MWh" (megawatt hour) to match the one used in sections that were incorporated by reference.

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