

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, 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. By separate petition, the Department proposes changes to Regulation Number 18 and Regulation Number 26 contingent upon the Commission promulgating Regulation Number 19. The Department requests that the Commission consider the initiation of rulemaking associated with the promulgation of Regulation Number 19 to be contingent upon the Commission’s decision to initiate rulemaking to amend Regulation Number 18 and Regulation Number 26. The Department makes this request to avoid the potential of either of two possible results:

- (a) The regulatory flexibility provisions we are proposing to add will not be effective unless all three regulations are initiated simultaneously; and
- (b) Regulations containing different permitting thresholds could cause confusion and unequal treatment of sources.

2. The proposed regulatory amendments involve the following:

- (a) Adding a definition of Title I modification and modifying the definition of volatile organic compounds to conform with the federal definition;
- (b) Updating Reg. 19.401, General Applicability, to change the emissions permitting thresholds from 40 to 75 tpy or more of carbon monoxide, from 25 tons per year (tpy) to 40 tpy or more of nitrogen oxides, from 25 tpy to 40 tpy or more of sulfur dioxide, from 25 tpy to 40 tpy or more of volatile organic compounds, from 10 tpy to 15 tpy or more of particulate matter that is 10 micrometers in diameter or smaller, from 1.0 tpy to 2.0 tpy or more of any single hazardous air pollutant and from 3.0 tpy to 5.0 tpy or more of any combination of hazardous air pollutants;
- (c) Clarifying that permit public notice requirements do not apply to changes in ownership or changes in name in Reg. 19.407;
- (d) Modifying and adding *De Minimis* levels in Reg. 19.407 for certain pollutants, the level at which a proposed modification would be considered trivial, from 5 tons per year (tpy) for carbon monoxide to 75 tpy; from 20 tpy for nitrogen dioxide, sulfur dioxide, or volatile organic compounds to 40 tpy; and establishing levels for particulate matter at 25 tpy and particulate matter that is 10 micrometers in diameter or smaller at 15 tpy. Another modification to Reg. 19.407 is the removal of language that refers to disclosure statements and replacing it with a reference to Regulation Number 8 which contains the applicable language.
- (e) Updating the incorporation by reference in Reg. 19.412, Dispersion Modeling, to adopt a revision of EPA's guideline on air quality models to include a preferred general purpose (flat and complex terrain) dispersion model;
- (f) Adding the new sections Reg. 19.414, Operational Flexibility-Applicant's Duty to Apply for Alternative Scenarios; Reg. 19.415, Changes Resulting in No

Emission Increases; and Reg. 19.416, Permit Flexibility. Reg. 19.414 allows facilities to implement an operating scenario allowed for in the permit to be implemented by the facility without permit revisions or notifying the Department. Reg. 19.415 also allows a permitted source to make changes in the facility that deviate with permit terms without a permit revision in certain circumstances; Reg. 19.416 allows the Department to grant extensions to any testing, compliance or other dates in the permit. The Department may also allow temporary emissions and/or testing that would otherwise exceed a permitted emission rate, throughput requirement or other limit in a facility's permit and the Department may grant a request to allow an alternative to the monitoring specified in a permit under certain circumstances;

- (g) Adding the new section Reg. 19.417, Registration, allow for tracking of facilities that are currently regulated under the emissions limits in Reg. 19.401 that would not be regulated under the proposed changes in Reg. 19.401.
- (h) Updating Reg. 19.904, Adoption of Regulations, to incorporate required changes to the state implementation plan. The change is an update of federal regulations that are incorporated by reference. The change makes a facility that is a major source for oxides of nitrogen or volatile organic compounds also a major source for ozone. The change recognizes that both oxides of nitrogen and volatile organic compounds are precursor pollutants for ozone formation.
- (i) Changing in Appendix A, Insignificant Activities List in Group A, the list of units, operations or activities that must be either listed as insignificant or included in the permit application as sources to be permitted, to add an exemption for generators that provide electricity to the distribution grid to item number 12. Additionally in Group B, the list of emissions units, operations, or activities that need not be included in a permit application, item number 69 has

been changed with the addition of hazardous air pollutants to the list of substances that cannot be used or emitted from mixers, blenders, roll mills, or calendars for rubber or plastic for which no materials in powder form are added; and

(j) Updating formatting, correcting typographical errors and inconsistencies in the regulation, and updating it to conform to state law.

3. The proposed changes to Regulation Number 19 do not require an economic impact/environmental analysis because some of the proposed changes are not expressly addressed by a Federal requirement. Those changes that are not expressly addressed by a Federal requirement are expressly addressed by a federal requirement and are equivalent to those requirements.

4. The proposed changes to Regulation Number 19 are exempt from the requirements of Act 143 of 2007. As such, a review by the Arkansas Economic Development Commission (AEDC) is not required.

5. Mike Bates or other Air Division staff 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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By: 

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