

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

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

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POLLUTION
CONTROL
COMMISSION

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 June 22, 2012, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. The revisions to the Regulation No. 19 are the result of a federal rule which gives States the option to defer PSD and Title V permitting requirements for biogenic CO₂ emissions from bioenergy and other biogenic stationary sources until July 21, 2014. The proposed amendments to Regulation No. 19 were precipitated by the following:

Deferral for CO₂ Emissions from Bioenergy and Other Biogenic Sources
Under the Prevention of Significant Deterioration ("PSD") and Title V
Programs, *76 FR 43490, July 20, 2011.*

Amendment of Regulation No. 19 is necessary in order to incorporate the above-referenced change into Arkansas's air pollution permitting program related to the exemption from permitting of CO₂ produced from the combustion or decomposition of biomass. Regulation No. 19 would be more stringent than existing federal law without the inclusion of the above-referenced deferral.

The areas addressed by the amendments adopted by the Commission are:

1. Legislative and Federal Regulatory Changes.

- (A) Modification of the definition of “CO₂ equivalent emissions” (“CO₂e”) in Chapter 2 to include the deferral for CO₂ emissions from bioenergy and other biogenic sources; and
- (B) Chapter 9 at Reg. 19.904(G)(2)(b), has been updated to include the deferral for CO₂ emissions from bioenergy and other biogenic sources.

2. Changes proposed by the Department.

- (A) The greenhouse gases “stay” provision has been moved, without revision, from Reg. 19.904(G)(6) to Reg. 19.104 (Severability section) to clarify the applicability of the provision; and
- (B) After public comment, Reg. 19.904(G)(2) was renumbered to improve readability as follows: changed existing “(2)” to “(2)(a),” and changed existing “(a)” to “(i),” “(b)” to “(ii),” and “(c)” to “(b).”

The Commission finds that the proposed revisions to Regulation No. 19 facilitate implementation of the substantive statutes administered by the Department regarding air pollution control. These rules are in the public interest, and are necessary to ensure that Regulation No. 19 is not more stringent than federal law.

Prepared by:
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

By: Mike Bates

Mike Bates