

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 19, REGULATIONS OF THE) DOCKET NO. 13-004-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 February 8, 2013, 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 Regulation No. 19 are necessary to implement plantwide applicability limitations (PALs) for greenhouse gas (GHG) emissions. On July 12, 2012, the Environmental Protection Agency published a final rule in the Federal Register which promulgated the third step of the GHG Tailoring Rule, which was instated to "improve the administration of the GHG PSD permitting programs." (77 Fed. Reg. 41,051, July 12, 2012.) Adoption of the proposed revisions to Regulation No. 19 will reduce the administrative burden on the Department and will streamline the air permitting process for large facilities subject to GHG permitting.

Amendment of Regulation No. 19 is necessary in order to incorporate the above-referenced change into Arkansas's air pollution permitting program related to PALs for GHG emissions that will affect large facilities in the State. 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.

Reg. 19.904, *Adoption of Regulations*, paragraph 19.904(A)(1) is revised to incorporate 40 C.F.R. § 52.21(aa), the section within the Code of Federal Regulations where the GHG PALs federal language is located, and the pre-existing paragraph (A)(1) is renumbered as (A)(2). Also, at 19.904(G)(1), subparagraphs (a), (b), and (c) are added largely verbatim from GHG PALs federal language found at 40 C.F.R. § 52.21(b)(49)(i).

2. Changes proposed by the Department.

Minor changes were made for clarification and consistency purposes, or to update typographical errors throughout Regulation No. 19. These changes are not related to the above GHG PALs revision, and are non-substantive items. Revisions made for this purpose include: at 19.904(A) a reference to paragraph 19.904(G) is added, at 19.904(E)(3) a reference to air quality models is corrected, and at 19.904(G)(1) the word “and” is added.

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, Air Division Chief