

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO )  
REGULATION NO. 19 )

DOCKET NO. 14-010-R

**ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY'S**  
**STATEMENT OF BASIS AND PURPOSE**

The Arkansas Pollution Control and Ecology Commission (the "Commission") is given the power and responsibility to promulgate rules and regulations. Under 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 (ADEQ).

This rulemaking was initiated to incorporate the revised 2012 federal National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>). On January 15, 2013, the United States Environmental Protection Agency (EPA) published a final rule in the Federal Register that promulgated revised primary standards for fine particles and revised the annual PM<sub>2.5</sub> standard by lowering the level to 12.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). EPA's revised primary standard provides increased protection against health effects associated with long- and short-term exposures. In the same rule, EPA retained the 24-hour PM<sub>2.5</sub> standard at a level of 35  $\mu\text{g}/\text{m}^3$ . (78 FR 3086, January 15, 2013). With this rulemaking, ADEQ is also proposing *De Minimis* values for PM<sub>2.5</sub>. During the public comment period, ADEQ took comments on when an analysis would be required to evaluate impacts on the National Ambient Air Quality Standards during the permitting process. Additionally, ADEQ took comment on requirements for such an analysis, when required.

These proposed revisions are necessary for ADEQ to administer the state's Prevention of Significant Deterioration (PSD) permitting program, and to retain that authority under an approved State Implementation Plan (SIP). Other necessary proposed regulatory amendments also included:

- i. Updates to the definition of “Volatile Organic Compounds” to match the federal definition (77 FR 37610, June 22, 2012; 78 FR 9823, February 12, 2013; 78 FR 53029, August 28, 2013; 78 FR 62451, October 22, 2013; and 79 FR 17037, March 27, 2014);
- ii. Updates to incorporation dates for Global Warming Potentials to include the federal revisions, as published in the Federal Register on November 29, 2013 (78 FR 71948, November 29, 2013); and
- iii. Inclusion of federal revisions to the reasonable possibility standard found at 40 C.F.R. § 52.21(r)(6), as published in the Federal Register on December 21, 2007 (72 FR 72607, December 21, 2007). The revision clarifies what constitutes “reasonable possibility” and when the reasonable possibility recordkeeping requirements apply.

Other proposed amendments for clarification or language update include:

- iv. Removal of language related to the temporary carbon dioxide “biomass exemption” which was adopted into Regulation No. 19 on October 26, 2012. On July 21, 2014, the exemption language expired automatically and the exemption is not currently effective;
- v. Inclusion of Federal Register publication dates for several items which were previously dated with arbitrary dates having no reference to federal or state law (e.g., the initiation date of the last proposed revision). This revision will help clarify the regulation so users may identify and verify against the federal regulation associated with a specific condition. Revisions proposed for this purpose are located:
  - Within the definition of “Particulate Matter Emissions:” February 27, 2014 (79 FR 11257)
  - Within the definition of “PM<sub>2.5</sub>:” October 17, 2006 (71 FR 61226)
  - Within the definition of “PM<sub>2.5</sub> emissions:” April 2, 2014 (79 FR 18452)
  - Within the definition of “PM<sub>10</sub>:” August 7, 1987 (52 FR 29467)
  - Within the definition of “PM<sub>10</sub> emissions:” April 2, 2014 (79 FR 18452)

- At 19.412(A): 70 FR 68228 (existing date is from this publishing, but no federal rule reference included)
  - At 19.702(F):
    - 40 C.F.R. Part 51, Appendix M: April 2, 2014 (79 FR 18452)
    - 40 C.F.R. Part 60, Appendix A: February 27, 2014 (79 FR 11257)
    - 40 C.F.R. Part 61, Appendix B: October 17, 2000 (65 FR 62161)
    - 40 C.F.R. Part 63, Appendix A: December 29, 1992 (57 FR 62002)
  - At 19.703(A):
    - 40 C.F.R. Part 60 Appendix B: February 27, 2014 (79 FR 11271)
    - 40 C.F.R. Part 60 Appendix F: February 27, 2014 (79 FR 11274)
    - 40 C.F.R. Part 51 Appendix P: November 7, 1986 (51 FR 40675)
  - At 19.703(B): 40 C.F.R. Part 51, Appendix P, Section 4.0 (Minimum Data Requirements): November 7, 1986 (51 FR 40675)
  - At 19.804(B): 40 C.F.R. § 60.8 February 27, 2014 (79 FR 11241)
  - At 19.903(B)(6): October 25, 2012 (77 FR 65107);
- vi. Inclusion of language submitted during stakeholder discussions for this rulemaking added at Reg. 19.305, titled “NAAQS Air Quality Analysis for Issuance of Permits,” and outlines ADEQ and source obligations and restrictions for permit analyses. Associated changes with this revision include the addition of definitions for “NAAQS state implementation plan,” for “State implementation plan,” and for “Emission increase” at Chapter 2. Additionally, at Reg. 19.407(C)(2), *De Minimis* Changes, language was revised to clarify the section by including reference to the proposed definition of “Emission increase;”
- vii. Changes to Appendix A, within the introduction for Group A, to match permitting protocol and changes to Group B number 76, to clarify the existing language by adding references to federal rules.

- viii. Revisions to Appendix B to clarify applicability of the NAAQS in the column of the existing table;
- ix. Additional minor changes for clarification and consistency such as correction of typographical errors and adding non-substantive changes throughout Regulation No. 19.

Adoption of the proposed revisions to Regulation No. 19 will bring state regulations into alignment with federal requirements, and allow the State to submit an approvable SIP related to PSD, thereby avoiding a Federal Implementation Plan (FIP). The proposed amendments to Regulation No. 19 will enable Arkansas to continue to permit emission sources in a way that is protective of the current NAAQS.

On November 21, 2014, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 19 to incorporate these changes. At its regularly scheduled meeting on December 5, 2014, the Commission initiated this rulemaking on Regulation No. 19. A public hearing was held in North Little Rock, Arkansas on January 12, 2015. During the public hearing, the public comment period was extended to February 17, 2015. Due to comments received, the following revisions were made to these proposed regulatory amendments:

- i. Proposed language in Reg. 19.305 was withdrawn;
- ii. Removed the definition of “Emission increase” in Chapter 2 and included language in Reg. 19.407(C)(2), to clarify that, for the purposes of determining whether a change can be considered De Minimis, emission increases are based on the differences between the sum of the proposed permitted rates for all emission units and the sum of previously permitted emission rates for all units. ADEQ noted in its response to comments that no credit is allowed for emission units that have not actually operated or operated as permitted, emission reductions required by other rules or under an enforcement order, or old emission sources removed from service prior to initiation of this rulemaking on December 5, 2014; and
- iii. Amended Reg. 19.407(C)(2) to maintain uniformity and consistency with Regulation No. 18

by adding the word “either.”

These rules are in the public interest, and are necessary to ensure compliance with both state and federal law.

Respectfully submitted,

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By:



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