

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

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

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AR. POLLUTION CONTROL
& ECOLOGY COMMISSION
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PETITION TO INITIATE RULEMAKING TO AMEND REGULATION
NO. 19, REGULATIONS OF THE ARKANSAS PLAN OF IMPLEMENTATION
FOR AIR POLLUTION CONTROL

The Arkansas Department of Environmental Quality (“ADEQ,” “Department”), for its Petition to Initiate Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control, states:

1. The Department requests that the Arkansas Pollution Control and Ecology Commission (“Commission”) Initiate Rulemaking to amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control.

2. The proposed regulatory amendments are as follows:

(a) **Substantive changes** are proposed to Regulation No. 19 as follows:

- i. Inclusion of revised federal standards for the 2012 National Ambient Air Quality Standard (“NAAQS”) for fine particulate matter (“PM_{2.5}”): An incorporation by reference date of January 15, 2013, is updated at Chapter 2, within the definitions of “National Ambient Air Quality Standards,” to include the new primary annual averaging time at 12.0 micrograms per cubic meter (“μg/m³”). Additionally, Appendix B is revised to include EPA’s revision to PM_{2.5} NAAQS, the Federal Register citation, and the date of the publication.

- ii. The definition of Volatile Organic Compounds (“VOC”) is updated at Chapter 2 to match the federal definition, adding to the list of VOCs ten (10) compounds determined to have negligible photochemical reactivity.
- iii. Incorporation dates for Global Warming Potentials are updated at Chapter 2 within the definition of “CO₂ equivalent emissions” and at 19.904(G)(2)(a)(i) to include federal revisions.
- iv. The phrase “10 tons per year or more of direct PM_{2.5}” is added at 19.401, within the General Applicability section, the phrase “10 tons per year of direct PM_{2.5}” is added at 19.407(C)(2)(a) to include a *De Minimis* threshold for permit amendments, and a row is added in the table at 19.407(C)(2)(b) to include a *De Minimis* air quality impact for PM_{2.5} (2 µg/m³—24-hour).
- v. Incorporation of federal revisions to the reasonable possibility standard as published in the Federal Register on December 21, 2007, are included at 19.904(A)(2). The revision clarifies what constitutes “reasonable possibility” and when the reasonable possibility recordkeeping requirements apply.
- vi. Proposed revisions also include language submitted during stakeholder discussions for this rulemaking. The proposed new section is located at Reg. 19.305, titled “NAAQS Air Quality Analysis for Issuance of Permits,” and outlines Department and source obligations and restrictions for permit analyses. The Department invites comment for this and other options to assist in streamlining and clarifying permitting requirements and procedures with regard to the Minor New Source Review permitting program. Associated changes with the proposed addition of Reg. 19.305 include the

addition of definitions for “NAAQS state implementation plan,” for “State implementation plan,” and for “Emission increase” at Chapter 2.

Additionally, at 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. The Department also proposes language intended to clarify Appendix B applicability within the existing NAAQS table.

(b) **Non-substantive revisions** made for clarification, consistency, or to update typographical errors throughout Regulation No. 19 include:

- i. Including Federal Register publish date citations within the definitions of “Particulate Matter Emissions,” “PM_{2.5},” “PM_{2.5} emissions,” “PM₁₀,” and “PM₁₀ emissions” where arbitrary dates of incorporation existed before. This action will help clarify the regulation so users may identify and verify against the federal statute associated with a specific condition. Additional items under 19.412(A), 19.702(F), 19.703(A), 19.703(B), 19.804(B), and 19.903(B)(6) related to test methods, data requirements, etc., are revised in the same manner;
- ii. Adding definitions for “State implementation plan,” and “NAAQS State implementation plan” at Chapter 2;
- iii. Changing the word "of" to "or," at 19.1303(G)(2), within the definition of “Independent small business marketer;”

- iv. Deleting the temporary biomass exemption (language expired on July 21, 2014) from Chapter 2, within the definition of “CO₂ equivalent emissions,” and at Reg. 19.904 (G)(2)(b);
 - v. Adding “methods and” to the definition of “Volatile organic compounds;”
 - vi. Moving existing text at 19.407(B)(1)(a) to 19.407(B)(1) to sync the section language;
 - vii. Correcting “(A)” to “(C)” at 19.407(C);
 - viii. Adding a section title at 19.702(F);
 - ix. Clarifying language at Appendix A, under Group A and under Group B;
 - x. Clarifying listed numbers by also spelling them out, e.g., “twelve (12),” throughout the regulation;
 - xi. Correcting the spelling of “hereinunder,” “condensable,” and “pentafluoroethane” throughout the regulation;
 - xii. Correcting “CFR” to “C.F.R” throughout the regulation;
 - xiii. Correcting “A.C.A.” to “Ark. Code Ann.” throughout the regulation; and
 - xiv. Deleting duplicate section symbols (“§”) where not appropriate; and
 - xv. Removing unnecessary instances where EPA is spelled out.
3. The proposed changes to Regulation No. 19 have been sent for review by the Department to the Arkansas Economic Development Commission (“AEDC”) as required under Act 143 of 2007.
 4. Mike Bates or other Air Division staff from ADEQ will be available to answer questions concerning this proposed rulemaking. A red-lined version of Regulation No. 19 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. A memo to the Commission and an electronic mail message to the AEDC regarding compliance with Act 143 of 2007 are attached as Exhibit “D,” and the associated Economic Impact Statement is attached as Exhibit “E,” both are hereby incorporated by reference. Parts of this rulemaking are not exempt from the Economic Impact/Environmental Benefit Analysis (“EIEBA”) requirement under Reg. 8.812. Although most of the substantive proposed additions incorporate language from federal regulation without substantive change, and the non-substantive proposed additions make only de minimis changes to the existing regulation and correct typographical errors, some substantive revisions are not directly incorporated from existing federal law. The revisions proposed in a new section at Reg. 19.305 are intended to provide further instructions as found at Ark. Code Ann. §§ 8-4-317 and 8-4-318, and are more specific to air quality analysis and permit demonstration related to protection of the NAAQS than the language found in Arkansas Code. For these revisions, an EIEBA is attached as Exhibit “F,” and is hereby incorporated by reference. A proposed minute order is attached as Exhibit “G,” and is hereby incorporated by reference. During the public comment period, ADEQ will take comments on when an analysis would be required to evaluate impacts on the National Ambient Air Quality Standards during the permitting process. Additionally, ADEQ will take comment on requirements for such an analysis, when required.

WHEREFORE, ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and adopt the proposed amendments to Regulation No. 19.

Respectfully Submitted,

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By: 
Mike Bates