

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION
IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 19, REGULATIONS OF) DOCKET NO. 16__-R
ARKANSAS PLAN OF IMPLEMENTATION)
FOR AIR POLLUTION CONTROL)**

**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 or “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. Revisions to Reg. 19.602 and Reg. 19.1004(H) in order to comply with EPA’s finding that these provisions are substantially inadequate to meet Clean Air Act (CAA) requirements and to address EPA’s State Implementation Plan (SIP) call to amend provisions applying to excess emissions during periods of startup, shutdown and malfunction. (80 FR 33840). These revisions include removal of language providing for an affirmative defense during periods of startup, shutdown and malfunction as stated in Reg. 19.602 and Reg. 19.1004(H) and replacement with language providing factors for the Director’s consideration in determining whether enforcement action is warranted. In addition, revisions include a rescission clause at Reg. 19.602(C) and Reg. 19.1004(H)(3) that would

restore affirmative defense provisions in the event that US EPA or a federal court stays, vacates, or withdraws EPA's SIP call to amend provisions applying to excess emissions during periods of startup, shutdown, and malfunction.

- ii. Repeal of Chapter 14, CAIR NO_x Ozone Season Trading Program General Provisions. EPA replaced the Clean Air Interstate Rule (CAIR) with the Cross-State Air Pollution Rule (CSAPR) on August 8, 2011. (76 FR 48208). CSAPR took effect on January 1, 2015. Therefore, CAIR is no longer in effect.
- iii. Addition of definition of "Direct PM_{2.5} emissions" to Chapter 2 to ensure consistency with the EPA's "Clean Air Fine Particle Implementation Rule." (72 FR 20664).
- iv. Addition of t-Butyl Acetate to the list of compounds determined to have negligible photochemical reactivity in the definition of "Volatile organic compounds" in Chapter 2. This addition was prompted by EPA's promulgation of the federal rule, "Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds—Requirements for t-Butyl Acetate. (81 FR 9339).

(b) Non-substantive revisions are proposed to Regulation No. 19 as follows:


- i. Revisions for the correction of typographic errors at Reg. 19.405(B)(4) and 19.407(C)(2).
 - ii. Revisions for clarification and correction of typographic errors and letters in the list at Reg. 19.601.
3. The proposed changes to Regulation No. 19 have been submitted to the Governor's Office for the Governor's review, per Executive Order 15-02.

4. Stuart Spencer or other Air Division staff from ADEQ will be available to answer questions concerning this proposed rulemaking. A marked-up version of Regulation No. 19 showing the proposed changes is attached as "Exhibit A," and is hereby incorporated by reference. A copy of the Governor's approval letter, consistent with Executive Order 15-02 is attached as "Exhibit B," and is hereby incorporated by reference. A copy of the Legislative Questionnaire is attached as "Exhibit C," and a copy of a Financial Impact Statement for the proposed revision is attached as "Exhibit D," both of which are incorporated by reference. The Economic Impact/Environmental Benefit Analysis (EIEBA) requirement under Reg. 8.812, is attached as "Exhibit E," and is hereby incorporated by reference. A memo explaining that compliance with Act 143 of 2007 has been replaced by Act 759 of 2013 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 the proposed revisions.

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: 
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