

DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY

SUBJECT: Rule 19, Rules of the Arkansas Plan of Implementation for Air Pollution Control

DESCRIPTION: The Division of Environmental Quality proposes changes to the current Arkansas Pollution Control and Ecology Commission Regulation 19. The purpose of amending Regulation No. 19 is to include changes in certain titles—“Regulation” to “Rule” and “Department” to “Division”—in order to bring Arkansas Pollution Control and Ecology Commission Regulation No. 19 in line with Act 315 of 2019 and the Transformation and Efficiencies Act of 2019. Because all instances of “regulation” were changed to “rule” when referring to rules promulgated by Arkansas entities, definitions for Rule 8, Rule 18, and Rule 26 were added. These definitions ensure continuity of references to these rules, which have not yet been revised to change the term “regulation” to “rule.” There are no substantive changes included in this proposed amendment.

PUBLIC COMMENT: A public hearing was held on March 6, 2020. The public comment period expired on March 20, 2020. The Division received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 8-4-202(a), the Arkansas Pollution Control and Ecology Commission is given and charged with the power and duty to adopt, modify, or repeal, after notice and public hearings, rules implementing or effectuating the powers and duties of the Division of Environmental Quality and the Commission under the Arkansas Water and Air Pollution Control Act, Arkansas Code Annotated §§ 8-4-101 through 8-4-318.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
OFFICE Office of Air Quality
DIVISION DIRECTOR Stuart Spencer, Associate Director
CONTACT PERSON Stuart Spencer, Associate Director, Office of Air Quality
ADDRESS 5301 Northshore Drive, North Little Rock, AR 72118-5317
PHONE NO. 501-682-0750 **FAX NO.** 501-682-0753 **E-MAIL** spencer@adeq.state.ar.us
NAME OF PRESENTER AT COMMITTEE MEETING Stuart Spencer
PRESENTER E-MAIL spencer@adeq.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

1. What is the short title of this rule? Regulation No. 19

2. What is the subject of the proposed rule? Regulations of the Arkansas Plan of Implementation for Air Pollution Control

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. 80 FR 65292

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
No.

If yes, what is the effective date of the emergency rule? Not applicable

When does the emergency rule expire? Not applicable

Will this emergency rule be promulgated under the permanent provisions of the Administrative

Procedure Act?

Yes No

The APC&EC rulemaking process is exempt from the definition of "agency" under the Arkansas Administrative Procedure Act (AAPA). (See Ark. Code Ann. § 25-15-202(2)(C)). However, ADEQ intends to petition the Arkansas Pollution Control and Ecology Commission to initiate and adopt the changes included in this rulemaking in a permanent rulemaking.

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. §§ 8-4-201, 8-4-202, 8-4-304, and 8-4-311

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose of this rule is to adopt the 2015 ozone national ambient air quality standard (NAAQS) promulgated by the United States Environmental Protection Agency (EPA) on October 26, 2015 (80 FR 65292). Adoption of the 2015 ozone NAAQS by the Arkansas Pollution Control and Ecology Commission (APC&EC) is required under Ark. Code Ann. 8-4-318(b)(1) for submission by the Arkansas Department of Environmental Quality (ADEQ) of (a) state implementation plan(s) demonstrating compliance with Clean Air Act §110 requirements for the standard to the EPA.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.adeq.state.ar.us/regs/drafts/draft_regs.htm

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: November 5, 2018

Time: 2:00 p.m.

ADEQ Commission Room

5301 Northshore Drive

Place: North Little Rock, AR 72118

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

November 19, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

January 25, 2019

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

The Arkansas Pollution Control and Ecology Commission is exempt from the definition of “agency” under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). However, laws concerning the promulgation of regulations by the APC&EC do require public notice. Proof of publication of said notice will be submitted along with a revision to this questionnaire following initiation of rulemaking with Arkansas Pollution Control and Ecology Commission.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e).

The Arkansas Pollution Control and Ecology Commission (APC&EC) is exempt from the definition of “agency” under the Administrative Procedure Act. (See Ark. Code Ann. § 25-15-202(2)(C)). Filing with the Secretary of State does not occur until after legislative review and APC&EC consideration and adoption of the rulemaking.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

The specific persons, groups, or organizations expected to comment and the exact nature of those comments are unknown at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Environmental Quality (ADEQ) by and through the Arkansas Pollution Control and Ecology Commission (Commission)

DIVISION Office of Air Quality

PERSON COMPLETING THIS STATEMENT Tricia Treece, Epidemiology Supervisor

TELEPHONE 501-682-0055 **FAX** 501-682-0753 **EMAIL:** treecep@adeq.state.ar.us

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Regulation No. 19

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;
Not Applicable

(b) The reason for adoption of the more costly rule;
Not Applicable

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
Not Applicable

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
Not Applicable

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

Next Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

(b) What is the additional cost of the state rule?

<u>Current Fiscal Year</u>		<u>Next Fiscal Year</u>	
General Revenue	\$0.00	General Revenue	\$0.00
Federal Funds	\$0.00	Federal Funds	\$0.00
Cash Funds	\$0.00	Cash Funds	\$0.00
Special Revenue	\$0.00	Special Revenue	\$0.00
Other (Identify)	\$0.00	Other (Identify)	\$0.00
Total	\$0.00	Total	\$0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ 0	\$ 0
Regulation No. 19 is applicable to any stationary source that has the potential to emit any federally regulated air pollutant. No increase in cost is expected for any private individual, entity, or business as a result of the amendments included in this rulemaking, which is no more stringent than federal law.	

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ 0	\$ 0
No increase in cost to state, county, and municipal government is expected from implementation of this rule.	

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

DATE: September 14, 2018
SUBJECT: Proposed Revisions to Regulation No. 19, Regulations of the Arkansas
Plan of Implementation for Air Pollution Control

The purpose of this rule is to adopt the 2015 ozone national ambient air quality standard (NAAQS) promulgated by the United States Environmental Protection Agency (EPA) on October 26, 2015 (80 FR 65292). Adoption of the 2015 ozone NAAQS by the Arkansas Pollution Control and Ecology Commission (APC&EC) is required under Ark. Code Ann. 8-4-318(b)(1) for submission by the Arkansas Department of Environmental Quality (ADEQ) of revisions to the state implementation plan demonstrating compliance with Clean Air Act §110 requirements for the standard to the EPA.