

EXHIBIT J

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Arkansas Department of Environmental Quality
DIVISION Air Division
DIVISION DIRECTOR Mike Bates
CONTACT PERSON Mike Bates
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NAME OF PRESENTER AT COMMITTEE MEETING Mike Bates or Karen Bassett
PRESENTER E-MAIL bates@adeq.state.ar.us or bassett@adeq.state.

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
Room 315, State Capitol
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? 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.

"National Ambient Air Quality Standards for Particulate Matter, Final Rule," 71 Federal Register 61144-61233 (October 17, 2006); "Interpretation of the National Ambient Air Quality Standards for PM2.5—Correcting and Simplifying Amendment," 73 Federal Register 1497-1503 (January 9, 2008). "Review of National Ambient Air Quality Standards for Carbon Monoxide; Final Rule," 76 Federal Register 54294-54343 (August 31, 2011). "National Ambient Air Quality Standards for Lead; Final Rule," 73 Federal Register 66964-67062 (November 12, 2008). "Primary National Ambient Air Quality Standards for Nitrogen Dioxide; Final Rule," 75 Federal Register 6474-6537 (February 9, 2010). "National Ambient Air Quality Standards for Ozone; Final Rule," 73 Federal Register 16436-16514 (March 27, 2008). "Primary National Ambient Air Quality Standard for Sulfur Dioxide; Final Rule," 75 Federal Register 35520-35603 (June 22, 2010).

Adoption of this proposed rulemaking will satisfy requirements under Section 110 of the Clean Air Act which requires that each state provide for implementation, maintenance, and enforcement of National

Ambient Air Quality Standards ("NAAQS") within the State. Section 161 of the Clean Air Act also requires that state implementation plans contain provisions to prevent significant deterioration of air quality in areas of the state designated as "attainment" or "unclassifiable" for each NAAQS.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes 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

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

Not applicable

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.

Not applicable

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 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?

This proposed rule implements federal rule changes made after the United States Environmental Protection Agency's ("EPA") periodic reevaluation of the NAAQS. In addition, this proposed rule updates Regulation No. 19, to be more closely aligned with multiple federal rules. The proposed changes will also clarify Regulation No. 19 and eliminate typographical errors.

This proposed rule is necessary to bring Arkansas into compliance with federal rule changes made as the NAAQS have been revised by the EPA. Also, by altering Regulation No. 19 to be in line with federal rules, the goal is for sources to find it less difficult to understand permitting requirements. Because the primary NAAQS are health-based standards and secondary NAAQS standards are set to protect public welfare, this rule change will allow ADEQ to protect human health and the environment from detrimental effects caused by NAAQS pollutants. The rule will also satisfy the State's requirements under the Clean Air Act to prevent significant deterioration of air quality in areas of the state designated as "attainment" or "unclassifiable" for each NAAQS. Additional substantive changes were made to Regulation No. 19 with the intention of updating Regulation No. 19 to be more closely aligned with federal rules. All other changes were made as updates, clarifications, and error corrections.

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).

http://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:

November 13,
Date: 2012

Time: 2:00 p.m.

Place: ADEQ Commission Room, 5301 Northshore Drive, North Little Rock, AR, 72118

10. When does the public comment period expire for permanent promulgation? (Must provide a date.) 4:30 p.m., November 29, 2012

11. What is the proposed effective date of this proposed rule? (Must provide a date.) June, 2013

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. 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.
In general, it is thought that the facilities subject to air permitting requirements will not object to this rulemaking. However, the overall consensus towards this proposed rule is unknown at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Environmental Quality ("ADEQ")

DIVISION Air Division

PERSON COMPLETING THIS STATEMENT Elizabeth Sartain

TELEPHONE NO. (501) 682-0719 **FAX NO.** (501) 682-0753 **EMAIL:** sartain@adeq.state.ar.us

To comply with Act 1104 of 1995, 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. Does this proposed, amended, or repealed rule affect small businesses? Yes No
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

Not applicable

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue Not applicable
Federal Funds Not applicable
Cash Funds Not applicable
Special Revenue Not applicable
Other (Identify) Not applicable
Total Not applicable

Next Fiscal Year

General Revenue Not applicable
Federal Funds Not applicable
Cash Funds Not applicable
Special Revenue Unknown
Other (Identify) Not applicable
Total Unknown

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Not applicable

Next Fiscal Year

\$ Unknown

Parties subject to this proposed rule will be those facilities with emissions of criteria pollutants and precursor pollutants such as PM2.5, PM10, lead, nitrogen oxides, ozone, and sulfur dioxide that will be permitted. It is reasonable to anticipate some increase in costs associated with compliance and permitting with revised National Ambient Air Quality Standards and PM2.5 /PSD implementation.

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

Not applicable

Next Fiscal Year

Unknown/ minimal

ADEQ's estimated cost to implement this rule is unknown at this time, but is anticipated to be minimal.

Memorandum

TO: Charles Moulton, Administrative Law Judge,
Arkansas Pollution Control and Ecology Commission

FROM: Mike Bates, Chief, Air Division

DATE: July 16, 2014

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

The Arkansas Department of Environmental Quality (“ADEQ”) proposes revisions to Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control. Regulation No. 19 is applicable to any stationary source which has the potential to emit any federally regulated air pollutant.

On September 14, 2012, 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 the state air permitting program related to Prevention of Significant Deterioration (“PSD”) and New Source Review (“NSR”). The Environmental Protection Agency (“EPA”) published several final rules in the Federal Register (“Fed. Reg.”) promulgating the following requirements:

- May 16, 2008, EPA finalized regulations to implement the NSR program for fine particulate matter (PM_{2.5}) (73 Fed. Reg. 28321).
- October 10, 2010, EPA amended requirements for PM_{2.5} under PSD program by adding maximum allowable increases in ambient pollutant concentrations (“increments”). Additionally, EPA advises that the Arkansas PSD program must incorporate by reference the supporting definition changes to Major Source Baseline Date at 40 CFR 52.21(b)(14)(i), Minor Source Baseline at 40 CFR 52.21(b)(14)(ii) and related provisions at 40 CFR 52.21(b)(14)(iii) and Baseline Area at 40 CFR 52.21(b)(15). EPA further

advises that the Source Impact Analysis Requirements at 40 CFR 52.21(k)(1), and the Requirements for Sources Impacting Federal Class I areas at 40 CFR 52.21(p) are also required elements involving PM_{2.5} increments. In addition, EPA advises that provisions at 40 CFR 52.21(i)(5)(ii) and 40 CFR 52.21(i)(5)(iii) must be incorporated by reference as of May 16, 2008 for administration of the PSD permitting program.

- October 2006: the EPA revised the 24-hour PM_{2.5} primary and secondary National Ambient Air Quality Standards (NAAQS) from 65 micrograms per cubic meter (µg/m³) to 35µg/m³, revoked the annual standard for PM₁₀, and retained the 24-hour primary and secondary NAAQS standards of 150 µg/m³ for PM₁₀ (71 Fed. Reg. 61144, Oct 17, 2006).
- March 2008: EPA revised the 8-hour ozone NAAQS standard from 0.08 parts per million (ppm) to 0.075 ppm (73 Fed. Reg. 16436, Mar 27, 2008).
- November 2008: EPA revised the lead NAAQS standard from a calendar quarter average of 1.5µg/m³ to a rolling three-month average of 0.15µg/m³ (73 Fed. Reg. 66964, Nov 12, 2008).
- June 2010: EPA retained the secondary 3-hour NAAQS standard of 0.5 ppm for sulfur dioxide, and added a 1-hour standard of 75 ppb (75 Fed. Reg. 35520, Jun 22, 2010).
- February 2010: EPA added for nitrogen dioxide a primary 1-hour NAAQS standard of 100 ppb and retained the primary and secondary annual standards of 53 ppb (75 Fed. Reg. 6474, Feb 9, 2010).

Adoption of the proposed revisions to Regulation No. 19 will enable the Department to submit an adequate State Implementation Plan (SIP) to EPA and will ensure that the state maintains authority to administer the PSD/NSR air permitting program, thereby avoiding a Federal Implementation Plan and PSD/NSR air permitting implemented by EPA. Amendment of Regulation No. 19 is necessary in order to incorporate the above-referenced federal requirements into Arkansas's air pollution permitting program.

The areas addressed by the amendments in this rulemaking are as follows:

1. Legislative and Federal Regulatory Changes

- A. Revision of the existing definitions of "Particulate Matter Emissions," "PM_{2.5}," "PM₁₀

emissions,” and “National Ambient Air Quality Standards,” and addition of a definition for “PM_{2.5} emissions” under Chapter 2

- B. Revision of the definition of “Regulated NSR Pollutant” at Reg.19.903(B) and addition of a definition for “subject to regulation” at Reg. 19.903(C)
- C. Updating incorporation by reference dates for:
 - i. 40 CFR §§ 52.21(b)(14)(i), (14)(ii), (15), (c), (k)(1), and (p) at Reg.19.904 and for 40 CFR § 51.301 at Reg.19.903(C) to October 20, 2010, which include necessary elements of the PSD program
 - ii. 40 CFR § 52.21(b)(23), 40 CFR 52.21(i)(5)(ii), and 40 CFR 52.21(i)(5)(iii) at Reg.19.904(A) to May 16, 2008, which include EPA’s required significant emission rates for PM_{2.5}
- D. Incorporation by reference of 40 CFR 52.21(b)(14)(iii) as of October 20, 2010, and of 40 CFR 52.21(i)(5)(ii) and 40 CFR 52.21(i)(5)(iii) as of May 16, 2008 at Reg.19.904(A), which include provisions necessary to administer the PSD permitting program

2. Changes proposed by the Department

Substantive changes proposed by the Department related to the inclusion or clarification of federal regulatory changes within Arkansas’s existing regulations include:

- A. Deletion of “which are in effect as of the effective date of this regulation” and clarification of applicability by addition of a reference to Chapter 9 at Reg.19.502

Minor changes were also made for clarification and consistency purposes, or to update typographical errors within Regulation No. 19. Revisions made for this purpose included:

- A. Addition of Appendix B, a table showing the National Ambient Air Quality Standards added a column to clarify Chapter applicability
- B. Deletion of “as listed in 40 CFR § 52.21” at Reg.19.502(A), because the NAAQS are not listed in that section of the CFR as the regulation originally stated, and adding “as defined herein;
- C. Added another item to Reg. No. 19.502(B) “Any ambient air increment pursuant to Chapter 9 of this regulation;” and previous items (B) and (C), became (C) and (D);

D. Correction of the initiation date of the rulemaking, listed at Reg. No. 19.903(B)(6), to
“September 28, 2012”