

Arkansas Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control

CHAPTER 1: TITLE, INTENT, AND PURPOSE

As approved by EPA March 4, 2015 (80 FR 11573) effective April 3, 2015 (ARd18), Regulations.gov docket EPA-R06-OAR-2014-0700 [AR018].

Section 19.102:

As approved by the Arkansas Pollution Control and Ecology Commission on December 3, 2004, and submitted to EPA February 3, 2005 [CFR date] (AR-16), Regulations.gov document EPA-R06-OAR-2005-AR-0001-0002 [AR001.02]. Approved by EPA April 12, 2007 (72 FR 18394) effective May 14, 2007 (ARd07).

Sections 19.101 and 19.103:

As adopted by the Arkansas Pollution Control and Ecology (PC&E) Commission December 5, 2008, effective January 25, 2009 [CFR date] and submitted to EPA July 26, 2010 (AR-30), Regulations.gov document EPA-R06-OAR-2014-0700-0005 [AR018.05]. Approved by EPA March 4, 2015 (80 FR 11573) effective April 3, 2015 (ARd18).

Section 19.104, Severability:

As adopted by the Arkansas Pollution Control and Ecology (PC&E) Commission October 26, 2012, effective November 18, 2012 [CFR date] and submitted to EPA November 6, 2012 (AR-36), Regulations.gov document EPA-R06-OAR-2014-0700-0006 [AR018.06]. Approved by EPA March 4, 2015 (80 FR 11573) effective April 3, 2015 (ARd18).

*** AR Reg 19 Chap 1 ** ARd18 ** EPA-R06-OAR-2014-0700 ** AR018 ** v85 ***

CHAPTER 1: TITLE, INTENT, AND PURPOSE

Reg. 19.101 Title

The following rules and regulations, adopted in accordance with the provisions of Subchapter 2 of the Arkansas Water and Air Pollution Control Act, Arkansas Code Annotated (A.C.A) §§ 8-4-201 et seq., shall be known as “Regulations of the Arkansas Plan of Implementation of Air Pollution Control,” hereinafter referred to as the “Regulations of the Plan,” and “Regulation 19.”

Reg. 19.102 Applicability

These regulations are applicable to any stationary source which has the potential to emit any federally regulated air pollutant.

Reg. 19.103 Intent and Construction

- (A) The purpose and intent of Regulation 19, as amended, is to provide a clear delineation of those regulations that are promulgated by the Commission in satisfaction of certain requirements of the federal Clean Air Act, 42 United States Code (U.S.C.) §§ 7401 et seq., as of July 1, 1997, and the federal regulations stemming therefrom. Federal programs that the Department is responsible for administering include, but are not limited to, the attainment and maintenance of the National Ambient Air Quality Standards (40 Code of Federal Regulations [CFR] Part 50), certain delegated subparts of the New Source Performance Standards (40 CFR Part 60), provisions designed for the Prevention of Significant Deterioration (40 CFR § 52.21), minor new source review as described in Chapter 4 (40 CFR Part 51), and certain delegated subparts of the National Emission Standards for Hazardous Air Pollutants (40 CFR Parts 61 and 63) as of July 1, 1997. This subsection shall not be construed as limiting the future delegation of federal programs to the Department for administration.
- (B) Regulation 19, as amended, is further intended to limit the federal enforceability of its requirements to only those mandated by federal law. Regulation 19, as amended, is also intended to facilitate a permit system for stationary sources within the State,

which permit shall provide which provisions are federally enforceable and which provisions are state enforceable.

- (C) Regulation 19, as amended, presumes a single-permit system, encompassing both federal and state requirements. A regulated facility which is subject to permitting under Regulation 19 shall be required to apply for and comply with only one permit, even though that permit may contain conditions derived from the federal mandates contained in Regulation 19, as well as conditions predicated solely on state law. Regulation 19, through construction or implication, shall not support the conclusion that all conditions of a permit have become federally enforceable because the permit contains provisions derived from Regulation 19. Permits or permit conditions issued under the authority of state law, or enforcement issues arising out of state law, shall not be federally enforceable.
- (D) To the extent consistent with state law and efficient protection of the State's air quality, Regulation 19 shall be construed in a manner that promotes a streamlined permitting process, mitigation of regulatory costs, and flexibility in maintaining compliance with federal mandates. Any applicable documents (e.g. "White Papers," regulatory preambles, or interpretive memoranda) issued by the Environmental Protection Agency which are consistent with this policy and the legislative intent of state laws governing air pollution control (A.C.A. § 8-4-301 et seq.) are aids for construing the requirements of Regulation 19. Any procedure applicable to major sources that promotes operational flexibility are presumed to be authorized by this regulation unless manifestly inconsistent with its substantive terms.
- (E) Nothing in Regulation 19 shall be construed as curtailing the Department's or Commission's authority under state law.

Reg. 19.104 Severability

If any provision of Regulation 19 is determined to be invalid, such invalidity shall not affect other provisions of Regulation 19.

If federal legislation or a federal court stays, invalidates, delays the effective date of, or otherwise renders unenforceable, in whole or in part, EPA's regulation of greenhouse gases, then the provisions of Regulation 19 concerning greenhouse gases based thereon shall be stayed and

shall not be enforceable until such time as the Commission makes a final decision on whether or not to revise Regulation 19 due to the federal legislation or federal court order.