

## **CHAPTER 1: TITLE, INTENT, AND PURPOSE**

### **Rule 19.101 Title**

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

### **Rule 19.102 Applicability**

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

### **Rule 19.103 Intent and Construction**

- (A) The purpose and intent of Rule 19, as amended, is to provide a clear delineation of those rules that are promulgated by the Commission in satisfaction of certain requirements of the Clean Air Act, and the federal regulations stemming therefrom. Federal programs that the Division is responsible for administering include, but are not limited to, the attainment and maintenance of the national ambient air quality standards (40 C.F.R. Part 50), certain delegated subparts of the new source performance standards (40 C.F.R. Part 60), provisions designed for the prevention of significant deterioration (40 C.F.R. § 52.21), minor new source review as described in Chapter 4 (40 C.F.R. Part 51), and certain delegated subparts of the national emission standards for hazardous air pollutants (40 C.F.R. Parts 61 and 63). This subsection shall not be construed as limiting the future delegation of federal programs to the Division for administration.
- (B) Rule 19, as amended, is further intended to limit the federal enforceability of its requirements to only those mandated by federal law. Rule 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) Rule 19, as amended, presumes a single-permit system, encompassing both federal and state requirements. A regulated facility that is subject to permitting under Rule 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 Rule 19, as well as conditions predicated solely on state law. Rule 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 Rule 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, Rule 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 EPA that are consistent with this policy and the legislative intent of state laws governing air pollution control (Ark. Code Ann. § 8-4-301 *et seq.*) are aids for construing the requirements of Rule 19. Any procedure applicable to major sources that promotes operational flexibility are presumed to be authorized by this rule unless manifestly inconsistent with its substantive terms.
- (E) Nothing in Rule 19 shall be construed as curtailing the Division's or Commission's authority under state law.

**Rule 19.104 Severability**

If any provision of Rule 19 is determined to be invalid, such invalidity shall not affect other provisions of Rule 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 Rule 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 Rule 19 due to the federal legislation or federal court order.

**Rule 19.105 Incorporation by Reference**

Unless a contrary intent is expressly stated, any adoption or descriptive reference to a law or federal regulation shall be construed as though the reference law were set forth in Rule 19 line-by-line, word-for-word as it existed on the effective date of Rule 19.