

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 26) DOCKET NO. 14-011-R**

**ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY'S
STATEMENT OF BASIS AND PURPOSE**

The Arkansas Pollution Control and Ecology Commission (the “Commission”) is given the power and responsibility to promulgate rules and regulations. Under Ark. Code Ann. § 8-1-203(b)(1), the Commission is granted the power and responsibility to promulgate rules and regulations implementing the substantive statutes which are administered by the Arkansas Department of Environmental Quality (ADEQ).

This rulemaking was initiated to incorporate the revised 2012 federal National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM_{2.5}). On January 15, 2013, the Environmental Protection Agency (EPA) published a final rule in the Federal Register which promulgated revised primary (health-based) standards for fine particles and revised the annual PM_{2.5} standard by lowering the level to 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). EPA’s revised primary standard provides increased protection against health effects associated with long- and short-term exposures (including premature mortality, increased hospital admissions and emergency department visits, and development of chronic respiratory disease). EPA retained the 24-hour PM_{2.5} standard at a level of 35 $\mu\text{g}/\text{m}^3$. (78 FR 3086, January 15, 2013.) In response, ADEQ proposes a limit of 10 tons per year of direct PM_{2.5} emissions as a threshold for allowing a source to make changes without a public notice process or a preconstruction permit at Reg. 26.1002.

The proposed regulatory amendments also include:

- i. Updates to the incorporation date for 40 C.F.R. Part 70 throughout Regulation No. 26

- to reflect current federal law (75 FR 31607, June 3, 2010);
- ii. Updates to the incorporation dates for Global Warming Potentials to include the federal revisions, as published in the Federal Register on November 29, 2013 (78 FR 71948, November 29, 2013);
 - iii. Changes to Chapter 2 to include a definition of “Emission increase” consistent with the definition currently proposed for Regulation No. 19;
 - iv. Removal of language related to the temporary carbon dioxide “biomass exemption” which was adopted into Regulation No. 26 on October 26, 2012. On July 21, 2014, the exemption language expired automatically and the exemption is not currently effective; and
 - v. Additional minor changes for clarification and consistency such as correction of typographical errors and adding non-substantive changes throughout Regulation No. 26.

On November 21, 2014, ADEQ filed a Petition to Initiate Rulemaking to Amend Regulation No. 26 to incorporate these changes. At its regularly scheduled meeting on December 5, 2014, the Commission initiated this rulemaking on Regulation No. 26. A public hearing was held in North Little Rock, Arkansas on January 12, 2015. During the public hearing, the public comment period was extended to February 17, 2015. Due to comments received, the following substantive revisions were made to these proposed regulatory amendments:

- i. Removed proposed definition of “Emission increase” in Chapter 2 of Regulation No. 26 and language was included in Reg. 26.1002 to clarify that, for the purposes of determining whether a change can be considered De Minimis, emission increases are based on the differences between the sum of the proposed permitted rates for all

emission units and the sum of previously permitted emission rates for all units.

ADEQ noted in its Responsive Summary that no credit is allowed for emission units that have not actually operated or operated as permitted, emission reductions required by other rules or under an enforcement order, or old emission sources removed from service prior to initiation of this rulemaking on December 5, 2014.

These rules are in the public interest, and are necessary to ensure compliance with both state and federal law.

Respectfully submitted,

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY
5301 Northshore Drive
North Little Rock, AR 72118

By:



Stuart Spencer
Associate Director, Office of Air Quality
(501) 682-0750
spencer@adeq.state.ar.us