



# ARKANSAS'S REGULATORY STREAMLINING PROJECT

ADEQ

Office of Air Quality

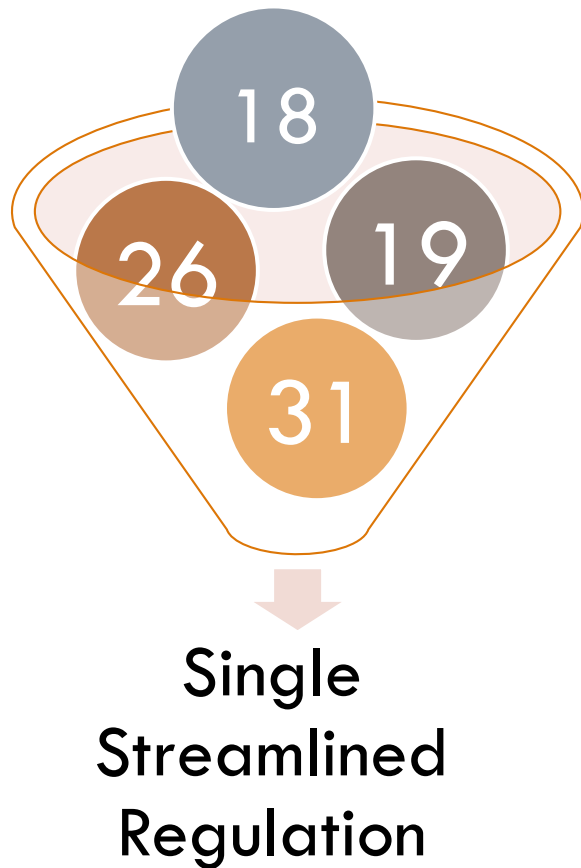
# Overview

- Goals
- Process
- Next Steps
- Lessons Learned

The background features a stylized landscape with a winding path in shades of gray leading towards a mountain peak in the distance. The peak has a small flag on top. There are also some clouds and smaller hills in the scene.

# Goals

# Consolidation



- Merge four Arkansas Pollution Control Ecology Commission air quality regulations into a single comprehensive and concise regulation
  - ▣ Regulation 18: Arkansas Air Pollution Control Code
  - ▣ Regulation 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control
  - ▣ Regulation 26: Regulations of the Arkansas Operating Air Permit Program
  - ▣ Regulation 31: Nonattainment New Source Review Requirements
- Future rulemakings affecting multiple program areas will not require completing documentation for multiple regulations

# Consistency and Clarity

- Correct inconsistencies
- Simplify regulatory language
- Improve flow with similar requirements grouped together
- Consolidate definitions
  - ▣ Combine similar terms
  - ▣ Clarify applicability of terms to different program areas
- Provide clarification to previously ambiguous requirements

“Actual emissions” [Reg. 31] means:

- (1) the actual rate of emissions of a regulated New Source Review (NSR) pollutant from an emissions unit, as determined in accordance with paragraphs (2) through (4) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a Plantwide Applicability Limitation (PAL) under Chapter 8 of this regulation. Instead, the definitions of “projected actual emissions” and “baseline actual emissions” shall apply for those purposes.
- (2) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The reviewing authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- (3) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

“Actual emissions” [Reg. 18] means the quantity of air contaminants emitted from a stationary source considering emissions control equipment and actual hours of source operation or amount of material processed.

“Actual emissions” [Reg. 19] means the quantity of federally regulated air pollutants emitted from a stationary source considering emissions control equipment and actual hours of source operation or amount of material processed.

# Remove or Update Outdated Provisions



- ❑ Remove references to programs no longer in existence
- ❑ Remove no longer applicable provisions
- ❑ Update facility names
- ❑ Update list of current national ambient air quality standards
- ❑ Remove vacated or stayed provisions
- ❑ Remove VOC control requirements from 1970s for a county that has been in attainment since 1984

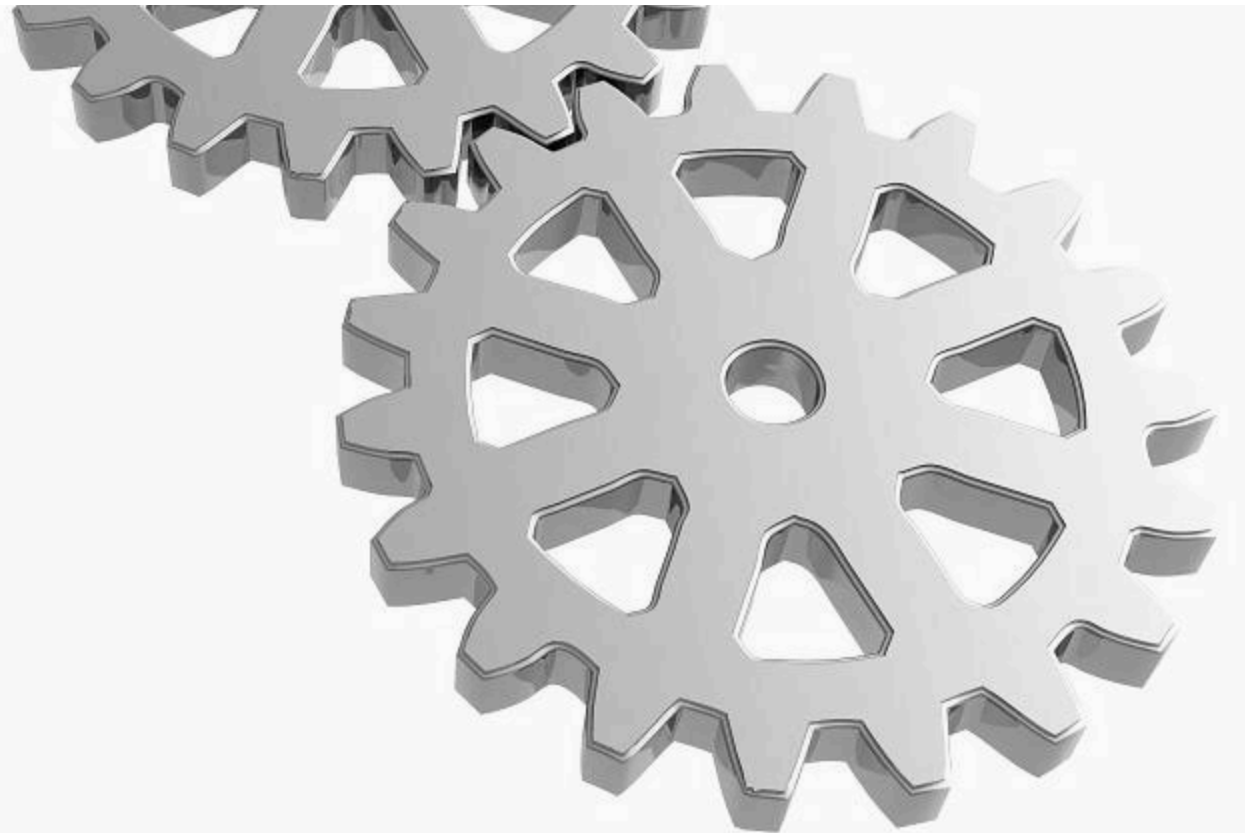
# Resolve Inconsistencies between State Statutes and Regulations

- Permitting requirements for commercial medical waste incinerators
- Hydrogen Sulfide state ambient air quality standard
- Open burning of vegetative storm debris





# Process





# Original Scope of the Streamlining Project

## Review APC&EC Regulations No. 18, 19, 26, and 31 and supporting documentation

- Why are the regulations are in their current form?
- Identical/similar requirements
- Other states' approaches

## Provide draft regulatory and supporting documents

- Strawman language
- APC&EC required supporting documents, including economic impact analysis

## Provide final regulatory and supporting documents

- Prepare responsiveness summary to address public comment
- Develop a final draft regulation showing proposed changes with any changes due to public comment

## Prepare SIP Package

- Prepare draft SIP packet
- Develop responsiveness summary
- Prepare final SIP packet

## Facilitate stakeholder engagement during rulemaking and SIP development process

# Establishing the Project

## Spring 2013

- ADEQ begins working with CenSARA on Request for Proposals/ Quotes

## Summer 2013

- Proposals received from two companies: SC&A, Inc. and ERG.

## Fall 2013

- ERG awarded the project

## May 2016

- Original target project completion date

# Project Scope Revisions

## Revision 1

- Completion date changed to September 1, 2015

## Revision 2

- Completion date changed to September 30, 2015

## Revision 3

- Regulatory roadmap
- Incorporation of additional substantive revisions (Pulaski County VOC, SSM, Vapor Recovery, CAIR, etc.)
- Completion date changed to December 2017

## Revision 4

- Budget and scope of work for contractor reduced
- ADEQ staff to take over work on regulatory packet and SIP development work

# Final Scope: Agency Staff versus Contractor Tasks

## Contractor Tasks

- 1 • Review historical regulatory documentation
- 2 • Conduct side-by-side comparison of regulations
- 3 • Perform word-for-word comparison of similar chapters
- 4 • Provide recommendations for addressing important differences
- 5 • Develop preliminary structure and strawman draft of regulation

## Agency Staff Tasks

- 1 • Review contractor tasks and provide feedback/direction
- 2 • Identify outdated provisions and necessary updates
- 3 • Prepare supporting documentation for rulemaking
- 4 • Engage regulated community, EPA, and the public
- 5 • Develop state implementation plan package

# Identification of Identical/Similar Requirements

Section/Topic	Corresponding section/text	
	Reg 18 Final 100618	Reg 19 Final -130727
Title	18.101 - adopted pursuant to Subchapter 2 of AWAPC (ACA 8-4-101)	19.101- adopted pursuant to Subchapter 2 of AWAPC (ACA 8-4-201)
Applicability/ Affected sources	18.103 - source which emits or has potential to emit any air contaminants	19.102 - stationary source which has potential to emit any federally regulated air pollutant
Intent	18.102 - regs deemed necessary by commission for air pollution control pursuant to mandates under state law -intends to preclude federal enforceability of requirements within reg	19.103 - clear delineation of regs promulgated by Commission to satisfy CAA requirements -limit federal enforceability of requirements to those mandated by federal law -facilitate permit system for stationary sources in the state, in which single permit may contain conditions based on both federal and state mandates.
Severability	18.104 - Invalidity of a provision shall not affect other provisions (provisions declared to be severable).	19.104 - Invalidity of a provision shall not affect other provisions - specifically calls out EPA's greenhouse gas regs and the potential for part or all of these to be stayed, invalidated, delayed, etc.
Definitions	(See Definitions tab)	(See Definitions tab)
Protection of NAAQS		19.301 Purpose
		19.302 Department Responsibilities
		19.303 Regulated Sources Responsibilities
		19.304 Delegated Federal Programs
Permits - Applicability	18.301 Applicability - permit required for operation, construction, or modification of source with actual emissions of at least: 75 tpy CO 40 tpy NOx 40 tpy SO2 40 tpy VOC 25 tpy PM (not consistent with Reg 19 language) 15 tpy PM10 0.5 tpy lead 2 tpy any single HAP 5 tpy of any HAP combination 25 tpy of any other contaminant (not consistent with Reg 19 language) -special applicability applies for sources for which Director deems permit necessary "to protect the public health and welfare or to assist in the abatement or control of air pollution". Includes but not limited to: medical waste incinerators, rendering plants, pathological waste incinerators, chemical process plants, haz waste trt storage or disposal, sour gas process plants, lead acid battery recycling, charcoal plants.	19.401 General Applicability - permit required for operation, construction, or modification of source with actual emissions of at least: 75 tpy CO 40 tpy NOx 40 tpy SO2 40 tpy VOC 15 tpy PM10 0.5 tpy lead 2 tpy any single HAP 5 tpy of any HAP combination

# Word-for-Word Comparison

## **Reg. 18.302 Approval Criteria**

No permit shall be granted or modified under this chapter unless the owner/operator demonstrates to the reasonable satisfaction of the Department that the stationary source will be constructed or modified to operate without resulting in a violation of applicable portions of this regulation ***and without causing air pollution.***

## **Reg. 19.402 Approval Criteria**

No permit shall be granted or modified under this chapter unless the owner/operator demonstrates to the reasonable satisfaction of the Department that the stationary source will be constructed or modified to operate without resulting in a violation of applicable portions of this regulation ***or without interfering with the attainment or maintenance of a national ambient air quality standard.***

# Reconciling Differences

Option A.1: No permit shall be granted or modified under this chapter unless the owner/operator demonstrates to the reasonable satisfaction of the Department that the stationary source will be constructed or modified to operate without resulting in a violation of applicable portions of this regulation, ***without causing air pollution, and without interfering with the attainment or maintenance of a national ambient air quality standard.***

Option A.2: No permit shall be granted or modified under this chapter unless the owner/operator demonstrates to the reasonable satisfaction of the Department that the stationary source will be constructed or modified to operate without resulting in a violation of applicable portions of this regulation ***and without causing air pollution.***

Option A.3: No permit shall be granted or modified under this chapter unless the owner/operator demonstrates to the reasonable satisfaction of the Department that the stationary source will be constructed or modified to operate without resulting in a violation of applicable portions of this regulation ***or without interfering with the attainment or maintenance of a national ambient air quality standard.***

Option B: Same language for each provision, but provisions are presented as separate paragraphs (either within the provision itself, or within a larger section or chapter), corresponding to their respective subset of affected sources.

# Draft Consolidated Regulation

## Regulation 35 Outline

[green indicates overlap with identical language; red indicates overlap with discrepancies; blue indicates new text]

### 1. Title and Purpose

Title [18.101, 19.101, 26.101, 31.101]

Applicability [18.103, 19.102, 31.102, 31.102]

Intent and Construction [18.102, 19.103, 26.102]

Severability [18.103, 19.104, 26.103, 31.103]

[Provisions Roadmap](#)

Effective Dates [18.1501, 19.1601, 26.1301, 31.901]

### 2. Definitions [18ch2, 19ch2, 26ch2, 31ch2]

### 3. Prohibitions

**Visible Emissions Limitations [18.501, 19.503]**

Open Burning Prohibition [18.602]

Exemptions to Open Burning Prohibition [18.603]

Open Burning During Conditions of Air Pollution [18.604]

Open Burning Authorizations [18.605]

Open Burning Authority [18.601]

Emissions from Mobile Equipment [18.701]

Prohibition of Emission of Air Contaminants Such as to Constitute Air Pollution [18.801]

Fugitive Emissions Prohibitions [18.901]

Circumvention [18.1201]

### 4. Startup/Shutdown, Upset Conditions, Breakdowns, Scheduled Maintenance, Interruption of Fuel Supply [18ch11, 19ch6]

Emission Limit Exceedances

**Upsets [18.1101] and Upset Conditions [19.601]**

**Emergency Conditions [18.1105, 19.602]**

Fuel Curtailment [18.1102]

Conditions of Air Pollution [18.1103]

Department's Authority [18.1104]



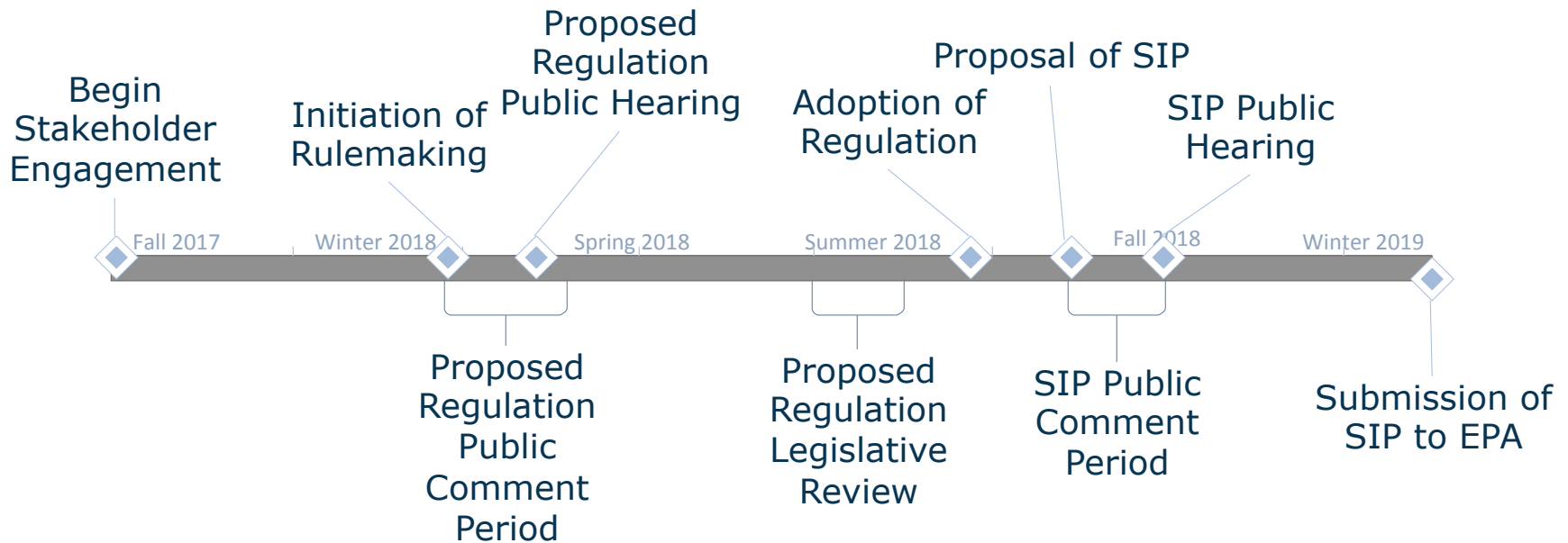
# Incorporate Additional Revisions

- Simplify language where possible
- Incorporate new regulatory requirements as necessary
- Revise existing regulatory requirements as necessary
- Update or repeal of outdated provisions as necessary



# Next Steps

# Rulemaking and SIP Process



# Supporting Documentation for SIP Submission

- 110(l) demonstration needed for repeal of substantive provisions previously approved into SIP
- Act 1302 demonstration pursuant to Arkansas Code Annotated § 8-4-317
- Infrastructure and Transport SIP for 2015 Ozone Standard



# Lessons Learned

# General Observations

- Depending on the time required to complete the project, the scope may change.
- Even if you contract out work, review will still take significant staff resources.
- There is a huge difference between just consolidating and streamlining.
- It is important to define the scope of tasks for the contractor and for agency staff to make the best use of staff and contractor expertise.

# Who does what?

## ERG

### Expertise

- Experience supporting EPA's Clean Air Act rulemaking programs
- Knowledge of air permitting programs at the state, local and tribal level
- Specific experience with consolidating rules without altering applicability or reducing stringency of the underlying rules

### Recommended Tasks

- Identification of similar/identical provisions, including word-for-word differences between similar provisions
- Develop recommendations for consolidated regulation organizational structure
- Develop strawman draft of consolidated regulation
- Create regulatory roadmap

## Agency Staff

### Expertise

- Experience preparing own state's rulemaking packets
- Relationship with public and regulated community
- Experience implementing own regulations
- In touch with Director's policy decisions

### Recommended Tasks

- Identify outdated language
- Incorporate desired substantive changes to update or remove outdated language, implement policy changes, etc.
- Prepare state-specific rulemaking and SIP documentation
- Review and provide direction to contractor

# Do

- ✓ Create a regulatory crosswalk early and keep it updated
- ✓ Document rationale for all changes as they are suggested
- ✓ Involve folks who will be implementing the revised regulation: inspectors, permit engineers, enforcement analysts





# Questions?

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