

# Arkansas State Implementation Plan Revisions/Clean Air Act: May 31st U.S. Environmental Protection Agency Proposed Approval



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

06/03/2019

The United States Environmental Protection Agency (“EPA”) published a May 31st Federal Register Notice proposing approval of State Implementation Plan (“SIP”) revisions previously submitted by Arkansas. See 84 Fed. Reg. 25218.

The SIP revisions were submitted on:

- October 24, 2002
- July 26, 2010
- November 6, 2012
- March 24, 2017

Section 110 of the Clean Air Act requires that the states assume primary responsibility for assuring attainment and maintenance of the National Ambient Air Quality Standards (“NAAQS”) once the federal agency has established them. Each state is therefore required to formulate, subject to EPA approval, an SIP designed to achieve each NAAQS. The SIPs will contain the measures and actions the state proposes to undertake to attain each NAAQS. These measures or actions must be enforceable through state regulations.

The states are generally free to make their own choices as to how they will attain the NAAQS through their SIPs. Further, the SIPs are in theory dynamic documents which the state can choose to change as it continues to determine the appropriate means of attaining or maintaining the various NAAQS. The SIP and subsequent revisions must be reviewed and approved by EPA if the criteria set forth in Section 110 are met. A change in a NAAQS may require a revision in the SIP. The SIP and/or revisions must be adopted pursuant to public notice and hearing.

EPA describes the Arkansas SIP revisions as “administrative” in nature. Further, the federal agency states that such revisions make the SIP current with federal rules. It also states that the revisions:

... add permit flexibility provisions to the NSR program. (Referencing the Clean Air Act New Source Review Program)

The Preamble to the Federal Register describes each of the submittals as:

- Non-substantive changes
- Updated references to federal regulations

- Clarifications to existing SIP provisions
- Revisions to address EPA's previous disapproval

Section "E" describes the permit flexibility provisions found in Arkansas Pollution Control and Ecology Commission Regulation 19:

- 19.414 (Operational flexibility – applicant's duty to apply for alternative scenarios)
- 19.415 (Changes resulting in no emission increases)
- 19.416 (Permit flexibility)

The EPA determines that the flexibility provisions are approvable.

A copy of the Federal Register Notice can be downloaded [here](#).