

Arkansas State Implementation Plan (Infrastructure/2015 Ozone NAAQS): U.S. Environmental Protection Agency Federal Register Notice Approval



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

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The United States Environmental Protection Agency (“EPA”) issued a February 12th Federal Register Notice approving elements of the State of Arkansas’s State Implementation Plan (“SIP”) for the 2000 Ozone (O3) National Ambient Air Quality Standard (“NAAQS”). See 86 Fed. Reg. 9290.

The Arkansas submission is stated to have addressed structural SIP requirements for implementation, maintenance, and enforcement of the 2015 O3 NAAQS.

The Clean Air Act provides that the states are primarily responsible for ensuring attainment and maintenance of each NAAQS once established by EPA. Each state is therefore required to formulate, subject to EPA approval, an Implementation Plan (“IP”) SIP designed to achieve each NAAQS. The SIPs will contain the measures and actions the state proposes to attain each NAAQS.

Ground level O3 is one of the six air pollutants currently designated as a criteria air pollutant and subject to NAAQS. The O3 NAAQS was revised in 2015. This necessitated the states revising their SIPs.

Ground level O3 is an irritant gas. It is not emitted by any particular source and is, therefore, a secondary air pollutant. It is formed in the atmosphere in the presence of sunlight and heat from other precursor air pollutants including nitrogen oxide and hydrocarbons. Other precursor pollutants include VOCs. The photochemical reactions can vary because they are initiated by natural conditions such as sunlight and temperature which can obviously change. As a result, the rate of ground-level formation can differ on an hourly, daily, or seasonal basis.

States are generally given broad discretion in formulating its SIP. As a result, they are typically free to make their own choices as to how they will attain the NAAQS through their SIPs. However, the SIP and any revisions must be reviewed and approved by EPA for determination that the criteria set forth in Section 110 of the Clean Air act are met.

EPA’s February 12th Federal Register Notice also notes that it is approving changes to certain existing Arkansas regulations to make them consistent with requirements for the 2015 O3 NAAQS.

The preamble to the Federal Register Notice references several comments submitted to EPA addressing the Arkansas submission. The federal agency’s response to such comments are provided.

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