

Arkansas State Implementation Plan/Clean Air Act: U.S. Environmental Protection Agency Proposes Approval of Revisions



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The United States Environmental Protection Agency (“EPA”) published in the August 22nd Federal Register Notice a proposed rule that would approve portions of the revisions to the Arkansas State Implementation Plan (“SIP”). See 88 Fed. Reg. 57014.

EPA states that the approval would address portions of the revisions to Arkansas’s SIP that include:

- Revisions to the Arkansas Pollution Control and Ecology Commission (“APC&EC”) Rule No. 19.
- Rules of the Arkansas Plan of Implementation for Air Pollution Control

The Clean Air Act imposes on the states the primary responsibility for ensuring attainment and maintenance of Clean Air Act National Ambient Air Quality Standards (“NAAQS”) once EPA has established them. Each state is therefore required to formulate, subject to EPA approval, an implementation plan (i.e., SIP) designed to achieve each NAAQS.

States are given broad discretion in formulating a SIP. Nevertheless, the SIP must contain the measures and actions the state proposes to undertake to attain each NAAQS. These measures or actions must be enforceable through state regulations and typically include emission limits applicable to certain types of stationary sources.

The states are generally free to make their own choices as to how they will attain the NAAQS through their SIPs. However, the SIP (including revisions) must be reviewed and approved by EPA to determine that the criteria set forth in Section 110 of the Clean Air Act are met. Such review would include revisions to the SIP.

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) is stated to have submitted these revisions (via the Arkansas Governor’s Office) to EPA on June 22, 2022. The revisions are stated to include:

- Restructuring the APC&EC regulations and organizing them as rules (i.e., Regulation 19 became Rule 19)
- Removing certain outdated provisions
- Updating provisions that are incorporated into Rule 19
- Repealing provisions that include:
- Chapter 10 of APC&EC Rule 19 regarding the control of volatile organic compounds from certain source categories in Pulaski County

- Provisions of the Clean Air Interstate Rule in Chapter 14
- Informational provisions regarding sources eligible or subject to best available retrofit technology requirements for regional haze in Chapter 15
- Revisions to various chapters in APC&EC Rule 18 addressing the current organizational structure of DEQ
- An EPA-identified deficiency within the Arkansas SIP related to the 2015 startup, shutdown, and malfunction SIP Call for Rule 19.1004(H)

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