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Arkansas State Implementation Plan Revisions/Minor New Source Review: September 18th U.S. Environmental Protection Agency Federal Register Notice Proposing Approval

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The United States Environmental Protection Agency ("EPA") published a September 18th Federal Register Notice proposing approval of revisions to the Arkansas State Implementation Plan ("SIP") which modify the Chapter 4 Minor New Source Review ("NSR") rules found in Arkansas Pollution Control and Ecology Commission Regulation No. 19. See 82 Fed. Reg. 43506.

The Arkansas SIP revisions proposed for approval revise the minor NSR permitting thresholds and *de minimis* levels (along with what EPA characterizes as other non-substantive revisions).

The Clean Air Act requires that EPA establish ambient air quality standards (i.e., National Ambient Air Quality Standards [NAAQS]) for a limited number of air pollutants. The states are then required to develop plans to ensure that their air quality control regions meet the various NAAQS.

Each state is required to formulate, subject to EPA approval, an implementation plan (i.e., SIP) designed to achieve each NAAQS. The SIPs 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 somewhat free to make their own choices as how they will attain the NAAQS through their SIPs. However, the SIP and subsequent revisions must be reviewed and approved by EPA for determination that certain criteria set forth in Section 110 of the Clean Air Act are met. A change in a NAAQS may require a revision in the SIP.

EPA in the September 18th Federal Register Notice is proposing approval of SIP revisions submitted by Arkansas on July 26th, 2010 and March 24, 2017. The federal agency states that the specific provisions of Regulation No. 19 addressed in its review include:

- Reg. 19.401
- Reg. 19.407(C)(2)(a) and (b)
- Reg. 19.417

The revisions are stated to include change to the minor NSR permitting thresholds and *de minimis* levels. The agency states that both the permitting thresholds and *de minimis* levels exempt certain stationary sources or proposed changes at stationary sources from minor NSR permitting requirements.

The proposed approval of the Arkansas revisions to the minor NSR permitting thresholds and *de minimis* levels has been determined by EPA to not remove, nor reduce, the federal and SIP approved requirements that each NSR permitting action authorizing emissions greater than the permitting thresholds provide an opportunity for the public to review and comment on the information submitted by the permit applicant. The agency also states that its action does not remove or reduce the federal SIP approved requirements and that as part of such permitting actions the public have an opportunity to review and comment on the required ADEQ analysis and determination that the construction or modification of the facility will not interfere with attainment or maintenance of a NAAQS. It also states that this approval does not remove the requirement that ADEQ's approval of all minor NSR permit actions include a technical analysis and determination that the change will not interfere with NAAQS attainment or maintenance.

[A copy of the September 18th Federal Register can be downloaded here.](#)