Arkansas State Implementation Plan/Clean Air Act: U.S. Environmental Protection Agency Proposed Rule Addressing Revisions



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The United States Environmental Protection Agency ("EPA") published an August 28th Federal Register Notice proposing to approve revisions to the Arkansas State Implementation Plan ("SIP"). See 90 Fed. Reg. 41930.

The revisions were submitted to EPA on February 4th and addressed the codification of the Arkansas Pollution Control and Ecology Commission Rule 19 and Regulations 9, 26, and 31 into the Code of Arkansas Rules.

EPA characterizes the revisions as non-substantive and administrative in nature. Therefore, they are stated to not "add or relax any provisions in the approved SIP."

The states are primarily responsible for ensuring attainment and maintenance of National Ambient Air Quality Standards ("NAAQS") once the 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.

A copy of the Federal Register Notice can be downloaded here.