

Mitchell, Williams, Selig, Gates &amp; Woodyard, P.L.L.C.

# Arkansas State Implementation Plan/Clean Air Act: U.S. EPA Approval of Codification

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The United States Environmental Protection Agency (“EPA”) published a January 26th Federal Register notice containing a final rule approving revisions to the Arkansas State Implementation Plan (“SIP”). See 91 Fed. Reg. 3037.

EPA states that the revisions address the codification of the Arkansas Pollution Control and Ecology Commission (“APC&EC”) Rule 19 and Regulations 9, 26, and 31 into the Code of Arkansas Rules (“CAR”).

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 revisions to the Arkansas SIP were originally submitted by the Arkansas Department of Energy & Environment (“ADEE”) to EPA on February 4, 2025. EPA subsequently proposed to approve the revisions in an August 2025 proposal.

EPA states that one comment was submitted asking the federal agency not to approve the Arkansas SIP and instead require the state to:

... adopt the more stringent emissions control such as those adopted in the state of California.

EPA states in its response its disagreement, noting that it must adhere to its obligation under section 110(k) to approve, disapprove, conditionally approve, in whole or in part, the codification of SIP in the state submittal at issue. It further states that the requirement of adopting more stringent emissions controls is not relevant nor relates to the subject matter raised in this rulemaking action and is thus outside the scope for this current action for EPA to address.

EPA describes the ADEE revisions as:

... non-substantive formatting edits and do not relax or introduce new rules to the approved SIP.

A copy of the Federal Register notice can be found [here](#).