



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2022-0907; FRL-11174-02-R6]

Air Plan Approval; Arkansas; Revisions to Rule 19 of the Arkansas Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving portions of the revisions to the Arkansas State Implementation Plan (SIP) including revisions to the Arkansas Pollution Control and Ecology Commission's ("Commission" or APC&EC) Rule No. 19, *Rules of the Arkansas Plan of Implementation for Air Pollution Control* submitted by the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) via the Arkansas Governor's Office on June 22, 2022. Most of the revisions are administrative in nature and make the SIP current with Federal rules.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2022-0907. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Clovis Steib, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-7566, steib.clovis@epa.gov. Please call or e-

mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our August 22, 2023, proposal (88 FR 57014) and the accompanying Technical Support Document (TSD), available in the docket for this rule. In our August 2023 proposal we proposed to approve portions of the revisions to the Arkansas State Implementation Plan (SIP) including revisions to the Arkansas Pollution Control and Ecology Commission's Regulation No. 19, *Rules of the Arkansas Plan of Implementation for Air Pollution Control* submitted by the Arkansas Department of Energy and Environment, Division of Environmental Quality (ADEQ) via the Arkansas Governor's Office on June 22, 2022. The proposal included revisions to remove certain outdated provisions and update other provisions that are incorporated into Regulation 19. Specific provisions to be partially repealed are those in Chapter 10 of APC&EC Regulation 19 regarding the control of volatile organic compounds (VOC) from certain source categories in Pulaski County, and provisions repealed from the Clean Air Interstate Rule (CAIR) in Chapter 14, and informational provisions regarding sources eligible or subject to best available retrofit technology (BART) requirements for Regional Haze in Chapter 15. All of the repealed provisions were either superseded by other rules or otherwise no longer necessary. One of the revisions restructured the regulations and organized them as “rules,” such that “Regulation No. 19” became “Rule No. 19,” *Rules of the Arkansas Plan of Implementation for Air Pollution Control*, with corresponding chapters and appendices. Most of the revisions are administrative in nature and make the Arkansas SIP current

with applicable Federal Rules. We did not receive any comments during the requisite comment period regarding our August 2023 proposal.

II. Final Action

We are approving portions of the revisions submitted by the State of Arkansas on June 22, 2022. We are finalizing the action without changes from our August 2023 proposal. Specifically, we are approving the following submitted revisions to Regulation 19: Revisions to Chapters 1, 2, 3, 4, 5, 6, 7, 9, 11, 13, 15, and Appendices A and B; the partial repeal of Regulation 19, Chapter 10 and repeal of Regulation 19, Chapters 14, and 16; and the new provision of Regulation 19, Chapter 18. Finally, we are approving the revision to rename Regulation 19 as Rule 19. These changes reflect the current organizational structure of ADEQ, remove outdated information, and make non-substantive formatting edits. This action is being taken under section 110 of the Act.

III. Environmental Justice Consideration

The EPA reviewed demographic data for groups of populations living within Pulaski County, Arkansas. The EPA then compared the data to the State of Arkansas and the national average for each of the demographic groups. The result of this analysis is discussed in detail in our proposal; and is provided for informational and transparency purposes.

This final action revises portions of the Arkansas SIP including revisions to Regulation 19 of the Arkansas Plan of Implementation for Air Control. We expect that this action and resulting emissions reductions will generally be neutral or contribute to reduced environmental and health impacts on all populations in the State of Arkansas, including people of color and low-income populations. The revisions provide updates to the SIP and improve clarity in the SIP so that the public can read and understand what is currently in the SIP. Further, there is no information in the record indicating that this

action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference the revisions to the Arkansas regulations as described in Section II of this preamble, Final Action. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of EPA's approval, and will be incorporated in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and

policies.”¹ EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”²

ADEQ did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an environmental justice analysis, as is described above in the section titled, “Environmental Justice Considerations.” The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

¹ See <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

² <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Carbon oxides, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 19, 2023.

Earthea Nance,
Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E – Arkansas

2. In §52.170, the table in paragraph (c), entitled “EPA-Approved Regulations in the Arkansas SIP,” is amended by revising the heading and entries for “Regulation No.

19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control” to read as follows:

§ 52.170 Identification of plan.

* * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
Rule No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control				
Chapter 1: Title, Intent and Purpose				
Rule 19.101	Title	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.102	Applicability	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.103	Intent and Construction	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.104	Severability	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.105	Incorporation by Reference	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 2: Definitions				
Chapter 2	Definitions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 3: Protection of the National Ambient Air Quality Standards				
Rule 19.301	Purpose	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

Rule 19.302	Division Responsibilities	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.303	Regulated Sources Responsibilities	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.304	Delegated Federal Programs	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 4: Minor Source Review				
Rule 19.401	General Applicability	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.402	Approval Criteria	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.403	Owner/Operator's Responsibilities	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.404	Required Information	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.405	Action on Application	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.406	Public Participation	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.407	Permit Amendments	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.408	Exemption from Permitting	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.409	[Reserved]	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

Rule 19.410	Permit Revocation and Cancellation	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.411	General Permits	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.412	Dispersion Modeling	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.413	Confidentiality	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.414	Operational Flexibility – Applicant’s Duty to Apply for Alternative Scenarios	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.415	Changes Resulting in No Emissions Increases	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.416	Permit Flexibility	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.417	Registration	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 5: General Emission Limitations Applicability to Equipment				
Rule 19.501	Purpose	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.502	General Rules	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.503	Visible Emission Rules	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

Rule 19.504	Stack Height/Dispersion Rules	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.505	Revised Emissions Limitation	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 6: Upset and Emergency Conditions				
Rule 19.601	Upset Conditions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.602	Emergency Conditions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 7: Sampling, Monitoring, and Reporting Requirements				
Rule 19.701	Purpose	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.702	Air Emissions Sampling	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.703	Continuous Emissions Monitoring	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.704	Notice of Completion	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.705	Record Keeping and Reporting Requirements	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.706	Public Availability of Emissions Data	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 9: Prevention of Significant Deterioration				
Rule 19.901	Title	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

Rule 19.902	Purposes	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.903	Definitions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.904	Adoption of Rules	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 10: Rules for the Control of Volatile Organic Compounds in Pulaski County				
Rule 19.1001	Title	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1002	Purpose	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1003	Definitions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1004	[Reserved]	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1005	Provisions for Specific Processes	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1006	[Reserved]	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 11: Major Source Permitting Procedures				
Chapter 11	Major Source Permitting Procedures	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 13: Stage 1 Vapor Recovery				
Rule 19.1301	Purpose	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

Rule 19.1302	Applicability	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1303	Definitions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1304	Exemptions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1305	Prohibited Activities	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1306	Record Keeping	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1307	Inspections	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1308	Vapor Recovery Systems	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1309	Gasoline Delivery Vessels	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1310	Owner/Operator Responsibility	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1311	Test Methods	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1312	Effective Date	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 14: [RESERVED]				
Chapter 15: Best Available Retrofit Technology				
Rule 19.1501	Purpose	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	

Rule 19.1502	Definitions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1503	[Reserved]	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1504	[Reserved]	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1505	Best Available Retrofit Technology Requirements	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1506	Compliance Provisions	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Rule 19.1507	[Reserved]	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Chapter 18: Effective Date				
Rule 19.1801	Effective Date	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Appendix A: Insignificant Activities List				
Appendix A	Insignificant Activities List	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
Appendix B: National Ambient Air Quality Standards List				
Appendix B	National Ambient Air Quality Standards List	6/22/2022	[Insert date of publication in the <i>Federal Register</i>], [Insert <i>Federal Register</i> citation]	
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3. Section 52.173 is amended by adding paragraph (j) to read as follows:

§52.173 Visibility protection.

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(j) *Revisions to the Arkansas Pollution Control and Ecology Commission's (APC&EC) Rule No. 19, Chapter 15.* Revisions to APC&EC Rule No. 19, Chapter 15, submitted on June 22, 2022, are approved.

[FR Doc. 2023-28497 Filed: 12/28/2023 8:45 am; Publication Date: 12/29/2023]