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[FR Doc. 2019-18041 Filed 8-22-19; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R06-OAR-2019-0301; FRL-9997-81-Region 6]****Air Plan Approval; Arkansas; Revisions to State Implementation Plan Permitting Programs****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 revisions to the Arkansas State Implementation Plan (SIP) Permitting Programs submitted on October 24, 2002, July 26, 2010, November 6, 2012, and March 24, 2017. Most of the revisions are administrative in nature and make the SIP current with Federal rules. In addition, the revisions add permit flexibility provisions to the NSR program. This final action is consistent with the requirements of section 110 of the CAA.

**DATES:** This rule is effective on September 23, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2019-0301. All documents in the docket are listed on the <https://www.regulations.gov> website. 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 and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <https://www.regulations.gov> or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

**FOR FURTHER INFORMATION CONTACT:** Ashley Mohr, EPA Region 6 Office, Air Permits Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214-665-7289, [mohr.ashley@epa.gov](mailto:mohr.ashley@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Mohr or Mr. Bill Deese at 214-665-7253.

**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 May 31, 2019 proposal (84 FR 25218). In that document we proposed to approve SIP revisions submitted by Arkansas on October 24, 2002, July 26, 2010, November 6, 2012, and March 24, 2017. The revisions addressed in that action include administrative revisions, revisions that make the Arkansas SIP current with Federal rules, and revisions that add permit flexibility provisions to the NSR program.<sup>1</sup> Also, included in that action was the proposed approval of revisions to the Arkansas SIP that address EPA’s previous 2016 disapproval related to biomass deferral language. We did not receive any relevant comments regarding our proposal.

**II. Final Action**

We are approving portions of the revisions to the Arkansas SIP submitted on October 24, 2002, July 26, 2010, November 6, 2012, and March 24, 2017. Specifically, we are approving the following revisions:

- Revisions to Regulation 19, Chapter 4 adopted on December 5, 2008 (effective January 25, 2009), June 22, 2012 (effective July 9, 2012), October 26, 2012 (effective November 18, 2012), and February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 19, Chapter 7 adopted on February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 19, Chapter 9 adopted on February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 19, Chapter 11 adopted on February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 19, Appendix A adopted on December 5, 2008 (effective January 25, 2009), June

<sup>1</sup> The permit flexibility provisions are found in Reg. 19.414, 415, and 416. Reg. 19.414—Operational Flexibility—Applicant’s Duty to Apply for Alternative Scenarios, allows permittees to implement alternative scenarios that were initially included in their permit application, without a permit revision or notification to the Department. Reg. 19.415—Changes Resulting in No Emissions Increases, allows permittees to make certain changes within the facility that otherwise contravene permit terms without a permit revision if the changes are not modifications under Title I, do not exceed emissions allowed under the permit, do not violate applicable requirements, and do not contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements. Reg. 19.416—Permit Flexibility, codifies ADEQ’s discretion to grant extensions to testing, compliance or other dates in a permit; to grant a request to allow temporary emissions and/or testing that would otherwise exceed a limit in a facility’s permit; and to allow an alternative to monitoring specified in a facility’s operating permit.

22, 2012 (effective July 9, 2012), October 26, 2012 (effective November 18, 2012), and February 26, 2016 (effective March 14, 2016);

- Revisions to Regulation 26, Chapter 3 adopted on August 23, 2002 (effective September 26, 2002), December 5, 2008 (effective January 25, 2009), and February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 26, Chapter 4 adopted on August 23, 2002 (effective September 26, 2002), December 5, 2008 (effective January 25, 2009), June 22, 2012 (effective July 9, 2012), October 26, 2012 (effective November 18, 2012), and February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 26, Chapter 5 adopted on December 5, 2008 (effective January 25, 2009) and February 26, 2016 (effective March 14, 2016);
- Revisions to Regulation 26, Chapter 6 adopted on August 23, 2002 (effective September 26, 2002), December 5, 2008 (effective January 25, 2009), and February 26, 2016 (effective March 14, 2016); and

- Non-substantive revisions throughout the current SIP-approved portions of Regulation 19 and 26 that replace “Section” with “Reg.” within section headings (e.g., “Section 26.101” revised to “Reg. 26.101”) that were adopted on December 5, 2008 (effective January 25, 2009).

This action is being taken under section 110 of the Act. EPA is not taking any action on the portions of the July 26, 2010 and November 6, 2012 SIP revision submittals that were listed in the letter from Arkansas dated March 28, 2019, that requested the withdrawal of those revisions from EPA’s consideration for approval into the Arkansas SIP.

**III. 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 the Final Action section above. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 6 Office (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 rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

#### IV. 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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
  - 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, 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - 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 CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 2019. 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, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 13, 2019.

**Kenley McQueen,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended 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
  - a. Revising the entries for Reg. 19.405, Reg. 19.406, Reg. 19.407, Reg. 19.411, Reg. 19.412, and Reg. 19.413;
  - b. Adding entries for Reg. 19.414, Reg. 19.415, and Reg. 19.416;
  - c. Revising the entries for Reg. 19.702, Reg. 19.703, Reg. 19.901, and Reg. 19.903;
  - d. Removing the entry for Section 19.904;
  - e. Adding an entry for Reg. 19.904;
  - f. Revising the entries for Chapter 11 and Appendix A;
  - g. Removing the entries for Section 26.301, Section 26.302, Section 26.401, Section 26.402, Section 26.407, Section 26.409, Section 26.410, Section 26.501, Section 26.502, Section 26.601, Section 26.602, Section 26.603, and Section 26.604; and
  - h. Adding entries for Reg. 26.301, Reg. 26.302, Reg. 26.401, Reg. 26.402, Reg. 26.407, Reg. 26.409, Reg. 26.410, Reg. 26.501, Reg. 26.502, Reg. 26.601, Reg. 26.602, Reg. 26.603, and Reg. 26.604.

The additions and revisions 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
<b>Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control</b>				
*	*	*	*	*
<b>Chapter 4: Minor Source Review</b>				
*	*	*	*	*
Reg. 19.405 .....	Action on Application .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.406 .....	Public Participation .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.407 .....	Permit Amendments .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
Reg. 19.411 .....	General Permits .....	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.412 .....	Dispersion Modeling .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.413 .....	Confidentiality .....	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.414 .....	Operational Flexibility-Applicant's Duty to Apply for Alternative Scenarios.	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.415 .....	Changes Resulting in No Emissions Increases.	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.416 .....	Permit Flexibility .....	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Chapter 7: Sampling, Monitoring, and Reporting Requirements</b>				
*	*	*	*	*
Reg. 19.702 .....	Air Emissions Sampling .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.703 .....	Continuous Emissions Monitoring .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Chapter 9: Prevention of Significant Deterioration</b>				
*	*	*	*	*
Reg. 19.901 .....	Title .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
Reg. 19.903 .....	Definitions .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 19.904 .....	Adoption of Regulations .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Chapter 11: Major Source Permitting Procedures</b>				
*	*	*	*	*
Chapter 11 .....	Major Source Permitting Procedures .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*
<b>Appendix A: Insignificant Activities List</b>				
*	*	*	*	*
Appendix A .....	Insignificant Activities List .....	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP—Continued

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
*	*	*	*	*
<b>Regulation 26: Regulations of the Arkansas Operating Permit Program</b>				
<b>Chapter 3: Requirements for Permit Applicability</b>				
Reg. 26.301	Requirement for a permit	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.302	Sources subject to permitting	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
<b>Chapter 4: Applications for Permits</b>				
Reg. 26.401	Duty to apply	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.402	Standard application form and required information.	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.407	Complete application	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.409	Applicant's duty to supplement correct application.	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.410	Certification by responsible official	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
<b>Chapter 5: Action on Application</b>				
Reg. 26.501	Action on part 70 permit applications	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.502	Final action on permit application	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
<b>Chapter 6: Permit Review by the Public, Affected States, and EPA</b>				
Reg. 26.601	Applicability	07/26/2010	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.602	Public participation	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.603	Transmission of permit information to the Administrator.	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
Reg. 26.604	Review of draft permit by affected States	03/24/2017	8/23/2019, [Insert <b>Federal Register</b> citation].	
*	*	*	*	*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-HQ-OAR-2018-0226; FRL-9998-28-OAR]

RIN 2060-AT97

**Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Moderate for the 2008 Ozone National Ambient Air Quality Standards**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action for 11 ozone nonattainment areas that are classified as “Moderate” for the 2008 ozone national ambient air quality standards (NAAQS). First, the agency is determining that two Moderate areas—Baltimore, Maryland, and Mariposa County, California—attained the standards by the July 20, 2018, applicable attainment date. Second, the agency is granting a 1-year attainment date extension for the two Moderate areas in Sheboygan County, Wisconsin—Inland Sheboygan County, Wisconsin, and Shoreline Sheboygan County, Wisconsin. Third, the agency is determining that seven Moderate areas failed to attain the standards by the applicable attainment date—Chicago-

Naperville, Illinois-Indiana-Wisconsin; Dallas-Fort Worth, Texas; Greater Connecticut, Connecticut; Houston-Galveston-Brazoria, Texas; Nevada County (Western part), California; New York-North New Jersey-Long Island, New York-New Jersey-Connecticut; and San Diego County, California. The effect of failing to attain by the applicable attainment date is that these areas will be reclassified by operation of law to “Serious” nonattainment for the 2008 ozone NAAQS on September 23, 2019, the effective date of this final rule. Accordingly, the responsible state air agencies must submit State Implementation Plan (SIP) revisions and implement controls to satisfy the statutory and regulatory requirements for Serious areas for the 2008 ozone