

disciplinary record (since the last hearing) [step 1(b)] and outstanding program achievement (from the last hearing) [step 1(c)] will be determined and added to or subtracted from the total guideline range determined at the last hearing. Otherwise, the actions available to the Commission will be the same as at an initial hearing.

Regulatory Assessment Requirements

The U.S. Parole Commission has determined that this proposed rule would not be a significant rule within the meaning of Executive Order 12866. The proposed rule would not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that will not substantially affect the rights or obligations of non-agency parties pursuant to section 804(3)(C) of the Congressional Review Act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

Dated: May 2, 2000.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 00-11521 Filed 5-8-00; 8:45 am]

BILLING CODE 4410-31-P

POSTAL SERVICE

39 CFR Part 111

Loading Requirements for PVDS Mailings

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: On December 23, 1999, the Postal Service published a Proposed Rule (64 FR 72044) seeking comments on a proposed revision to the Domestic Mail Manual (DMM) to require that, if Periodicals mail is on the same vehicle as Standard Mail in a plant-verified drop shipment (PVDS), then the Periodicals mail must be loaded toward the tail end of the trailer so that Periodicals mail can be offloaded first for each destination entry. On February 11, 2000, the Postal Service published a notice that extended the comment period for this proposed rule until March 15, 2000 (65 FR 6950).

Based on the comments received, the Postal Service is withdrawing the proposed rule. The loading requirement

for Periodicals mail in a PVDS mailing will continue to be an optional—or preferred—method, but will not be required. Customers may access the current DMM requirements by going to the Postal Explorer Web site (<http://pe.usps.gov>). These specific mailing standards can be found in DMM E651.2.2, E652.4.2, P750.2.12, and P750.2.13.

SUPPLEMENTARY INFORMATION:

Summary of Comments Received

The Postal Service received a total of 16 comments in response to the Proposed Rule.

Seven comments supported making the loading of Periodicals toward the tail end of the trailer a requirement. All of these comments came from Periodicals publishers. Their support for the Proposed Rule is based on the assumption that delivery service would improve if Periodicals mail could be identified, offloaded from vehicles, and processed as soon as possible. One commenter pointed out that this Proposed Rule is consistent with the Postal Service's commitment to the mailing industry to improve the delivery service of Periodicals mail. The same commenter raised questions about how this Proposed Rule might affect Periodicals costs.

One commenter gave cautious support to the Proposed Rule for the reasons cited above.

Eight comments opposed the Proposed Rule. Most of these commenters are in the printing and mail transportation industries. These comments focused on the cost and logistics implications of a requirement to load Periodicals mail toward the tail end of the trailer for each stop. Many commenters believed that having to "stagger" Periodicals and Standard Mail within a vehicle for each scheduled stop would increase their costs. There also were concerns about OSHA and Department of Transportation requirements for vehicle loading and unloading.

All of the commenters who opposed the Proposed Rule mentioned that they support the current standards in the Domestic Mail Manual, which allows mailers the option of loading Periodicals mail toward the tail end of vehicles for each stop.

Based on these reasons and after extensive discussions with customers and internal departments, the Postal Service has decided to withdraw the Proposed Rule. The Domestic Mail Manual will continue to contain the optional, or preferred, method of loading Periodicals mail toward the tail

end of vehicles so that the Periodicals mail can be offloaded first at each stop.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00-11451 Filed 5-8-00; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AR-8-1-7409; FRL-6603-9]

Approval and Promulgation of Implementation Plans; Arkansas; Regulation 19

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Arkansas State Implementation Plan (SIP or plan). Specifically, EPA proposes to approve a recodification of and revisions to Arkansas' SIP. These revisions were adopted by the Arkansas Department of Environmental Quality (ADEQ) on January 22, 1999, and submitted to EPA by the Governor of Arkansas on March 5, 1999. The EPA also proposes to incorporate into the Arkansas SIP portions of Arkansas regulation for its operating permits program which relate to the construction and modification of major sources. This is necessary because the submitted SIP revision incorporates these provisions to ensure that major sources which must receive an operating permit meet the Federal requirements relating to the construction and modification of major sources.

The EPA proposes to approve these revisions based upon our finding that the regulations meet the requirements of the Clean Air Act (the Act) pertaining to the approval of SIPs and the Federal regulations which describe the requirements that a SIP must meet.

Furthermore, EPA proposes to approve revisions to Arkansas' program for the prevention of significant deterioration (PSD) of air quality to replace the increments for total suspended particulates (TSP) with increments for particulate matter less than 10 microns (PM-10). In conjunction with this action, EPA also proposes to remove the TSP area designation tables in title 40 of the Code of Federal Regulations (40 CFR) part 81 for Arkansas. The EPA is taking no action on a Chapter 8 of the submittal of Regulation 19 which pertains to

designated facilities. The EPA will act on Chapter 8 in a separate action.

DATE: Comments must be received on or before June 8, 2000.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole C. Luehrs, Chief, Air Permits Section (6PD-R), ATTENTION: Stanley M. Spruiell, at the EPA Region 6 Office listed below. Copies of documents relevant to this action, including the Technical Support Document, are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency,
Region 6, Air Permits Section (6PD-R), 1445 Ross Avenue, Dallas, Texas 75202-2733.

Arkansas Department of Environmental Quality, Division of Air Pollution Control, 8001 National Drive, P.O. Box 8913, Little Rock, Arkansas 72219-8913.

FOR FURTHER INFORMATION CONTACT: Stanley M. Spruiell of the EPA Region 6 Air Permits Section at (214) 665-7253 at the address above or at spruiell.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" means EPA.

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I. Summary of Today's Action

A. What Action Are We Taking?

We propose to approve Regulation 19 of the ADEQ, except for Chapter 8—Designated Facilities. Regulation 19 revises and recodifies the Arkansas SIP.

The submitted regulation includes provisions which address the requirements of the Act and ensures the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) we promulgated under section 109 of the Act. The ADEQ adopted and submitted Regulation 19 under section 110 of the Act. The regulation includes:

- Enforceable emission limitations and other control measures and techniques,
- A program for enforcement of such measures,
- Provisions for the regulation of the modification and construction of stationary sources, and
- Other measures required under section 110 of the Act.

We also propose to incorporate into the Arkansas SIP portions of Arkansas Regulation 26—Regulation of the Arkansas Operating Permit Program, adopted July 23, 1993 and submitted to EPA on October 29, 1993. Under this proposal we will incorporate the provisions of Regulation 26 that are incorporated by reference by Regulation 19, Chapter 11. The provisions of Regulation 26 so incorporated are the provisions of Regulation 26 that meet the Federal requirements of 40 CFR part 51, subpart I as they apply to new and modified major sources that are permitted under Regulation 26.

We have reviewed the submittal and determine that Regulation 19 and the incorporated provisions of Regulation 26 meet the requirements of the Act. The following sections of this preamble summarize the requirements of regulations and our basis for proposing approval.

We have also prepared a Technical Support Document (TSD) which contains a detailed analysis of our evaluation and proposed approval of Regulation 19. The TSD is included as part of the public docket and is available at the addresses listed above.

B. Are There Provisions of Regulation 19 That We Are Not Acting On in Today's Proposal?

We are taking no action on Chapter 8—Designated Facilities. Designated facilities are regulated under section 111(d) of the Act. The review process of State Plans for designated facilities is carried out separately from other SIP activities. Please see section XI of this preamble for further discussion of designated facilities and the basis for taking no action in today's proposal.

II. What Are National Ambient Air Quality Standards?

Section 109 of the Act requires the EPA Administrator to establish NAAQS

for air pollutants which the Administrator has issued air quality criteria (criteria pollutants). For each criteria pollutant, Administrator must establish

- A primary ambient air quality standard which is necessary to protect the public health, and
- A secondary ambient air quality standard to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant.

We have established NAAQS in 40 CFR part 50, National Primary and Secondary Ambient Air Quality Standards. The criteria pollutants for which NAAQS exist are: sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead. Regulation 19 includes measures to ensure that NAAQS for these criteria pollutants are maintained.

III. What Actions Has the State taken?

On January 22, 1999, ADEQ adopted Regulation 19—Regulations of the Arkansas Plan of Implementation for Air Pollution Control after holding a public hearing on November 23, 1998. Regulation 19 became effective as a State rule on February 15, 1999.

The Governor of Arkansas submitted Regulation 19 to us on March 5, 1999, and requested that we approve Regulation 19 as a revision to the Arkansas SIP. We reviewed the SIP submittal for administrative completeness to assure that it meets the criteria set forth in 40 CFR part 51, appendix V—Criteria for Determining the Completeness of Plan Submissions. We informed the Governor and ADEQ on May 25, 1999, that the submission met these criteria and is administratively complete. Our determination that the plan submission is administratively complete means that we consider it to be an official submission for the purposes of 40 CFR 51.103.

Regulation 19 includes the following Chapters and Appendix as described in Table 1 below:

TABLE 1.—CHAPTERS AND APPENDICES IN REGULATION 19 SUBMITTED BY ARKANSAS ON MARCH 5, 1999

Chapter	Title
Chapter 1	Title, Intent, and Purpose.
Chapter 2	Definitions.
Chapter 3	Protection of the National Ambient Air Quality Standards.
Chapter 4	Minor Source Review.
Chapter 5	General Emission Limitations Applicable to Equipment.

TABLE 1.—CHAPTERS AND APPENDICES IN REGULATION 19 SUBMITTED BY ARKANSAS ON MARCH 5, 1999—Continued

Chapter	Title
Chapter 6	Upset and Emergency Conditions.
Chapter 7	Sampling, Monitoring, and reporting Requirements.
Chapter 8	Designated Facilities.
Chapter 9	Prevention of Significant Deterioration.
Chapter 10	Regulations for the Control of Volatile Organic Compounds.
Chapter 11	Major Source permitting Procedures.
Appendix A	Insignificant Activities List.

IV. Title, Intent, and Purpose—Chapter I

A. What Has Changed Since the Last Approval?

The provisions of Chapter 1 were previously identified in the Arkansas Rules of the Plan (ROP), Section 1—Title, Section 2—Purpose, and Section 9—Severability. These Sections were approved at 41 FR 43904 (October 5, 1976). These provisions are now recodified in Chapter 1, which is divided into Section 19.101—Title, Section 19.102—Applicability, Section 19.103—Intent and Construction, and Section 19.104—Severability.

Section 19.101 recodifies Arkansas ROP Section 1 and identifies the Title as “Regulations of the Arkansas Plan of Implementation of Air Pollution Control,” also referred to as the “Regulations of the Plan” and “Regulation 19.”

Section 19.102 recodifies portions of Arkansas ROP Section 2 and provides that Regulation 19 applies to any stationary source which has the potential to emit any Federally regulated pollutant.

Section 19.103 recodifies Arkansas ROP Section 2 and revises the Plan to more specifically identify the intent and construction of Regulation 19 as follows:

—Provide a clear delineation of the regulations of the ADEQ that are adopted to satisfy the requirements of the Act and the Federal regulations which stem from the Act. The Federal requirements that the ADEQ administers are: the NAAQS (40 CFR part 50), certain delegated subparts of the New Source Performance Standards (NSPS)(40 CFR part 60), provisions designed for PSD (40 CFR 52.21), minor new source review as described in Chapter 4 of Regulation 19 (40 CFR part 51) and certain

delegated subpart of the National Emission Standards for Hazardous Air Pollutants (NESHAP)(40 CFR parts 61 and 63).

—Limits Federal enforceability to only those requirements mandated by Federal law and facilitates a permit system which provides for permit conditions that are federally enforceable as well as those conditions which are State enforceable.

—Presumes a single permit system which encompasses both Federal and State requirements.

—Promotes a streamlined permitting process which mitigates regulatory costs and provides flexibility in maintaining compliance with Federal mandates.

Section 19.104 recodifies Arkansas ROP Section 9 and provides that when a provision of Regulation 19 is determined to be invalid, such invalidity shall not affect other provisions of Regulation 19.

B. Is Chapter 1 Approvable?

Chapter 1 requires that sources in Arkansas meet all requirements of the Act and is therefore approvable.

V. Definitions—Chapter 2

A. What Has Changed Since the Last Approval?

The definitions were previously identified in Arkansas ROP, Section 3—Definitions. The definitions are now codified in Chapter 2 which lists and defines several terms that are used in Regulation 19. The TSD contains a detailed analysis of the definitions in Chapter 2 and the basis for our proposed approval.

B. Is Chapter 2 Approvable?

The definitions in Chapter 2 are consistent with the corresponding definitions in the Act and in applicable Federal regulations. We therefore propose to approve Chapter 2 of Regulation 19.

VI. Protection of the National Ambient Air Quality Standards—Chapter 3

A. What Has Changed Since the Last Approval?

The provisions of Chapter 3 were previously documented in Arkansas ROP Section 2. Chapter 3 is divided into Section 19.301—Purpose, Section 19.302—Department Responsibilities, Section 19.303—Regulated Source Responsibilities, and Section 19.304—Delegated Federal Programs.

Section 19.301 defines the purpose of Chapter 3 as identifying the responsibilities of the State and of

regulated sources in meeting and maintaining the NAAQS. Section 19.302 identifies the ADEQ’s responsibilities as taking precautions to prevent the NAAQS from being exceeded. The precautions include conducting air quality monitoring and using computer modeling (according to EPA approved models) when it reasonably expects air quality to be in excess of the NAAQS.

Section 19.303 identifies the responsibilities of the regulated sources. Such responsibilities include: (1) obtaining a permit when required by law or Regulation 19, (2) operating equipment in such manner as to meet applicable requirements of permits and regulations, and (3) repairing malfunctioning equipment and pollution control equipment as quickly as possible.

Section 19.304 requires sources to comply with all Federal programs that the ADEQ is responsible for administering. This includes: (1) certain delegated subparts of the NSPS (40 CFR part 60), (2) provisions designed for PSD (40 CFR 52.21), (3) certain delegated subparts of the NESHAP (40 CFR parts 61 and 63), which were promulgated September 28, 1998.

B. Is Chapter 3 Approvable?

As submitted, Chapter 3 incorporates the previously approved SIP with revisions which clarify how the ADEQ will maintain compliance with the NAAQS. We therefore propose to approve Chapter 3 of Regulation 19.

VII. Minor Source Review—Chapter 4 and Parts of Chapters 3 and 5

A. What Has Changed Since the Last Approval?

The currently approved SIP was approved on May 5, 1989, 54 FR 18494. The requirements for permitting the construction of new and modified sources were previously documented in Arkansas ROP, Section 4—Permits. The current requirements are documented in Regulation 19, Chapter 4 (Minor Source Review) and in parts of Chapter 3 (Protection of the National Ambient Air Quality Standards) and Chapter 5 (General Emission Limitations Applicable to Equipment). Chapter 4 and parts of Chapters 3 and 5 contains the requirements for permitting new and modified minor sources.¹ The following paragraphs address our evaluation of Chapter 4 and the minor source review provisions of Chapters 3 and 5.

¹ The permitting requirements for major sources are in Chapters 9 and 11. These Chapters are discussed in sections XII and XIV of this preamble.

Chapter 4 recodifies the permitting requirements for minor sources and divides the program as follows:

TABLE 2.—DESCRIPTION OF EACH SECTION IN CHAPTER 4

Section	Title	Description
19.401	General Applicability	Identifies emission thresholds for each air pollutant for which a permit is required if the threshold is exceeded.
19.402	Approval Criteria	Requires a source to show that construction or modification does not violate control strategy and does not interfere with attainment or maintenance of a NAAQS.
19.403	Owner/Operator Responsibilities	Requires that issuance of a permit does not interfere with owner's or operator's responsibility to comply with applicable portions of Regulation 19.
19.404	Required Information	Identifies the minimum information required in a complete permit application.
19.405	Action on Application	Describes the administrative process for reviewing and issuing a permit.
19.406	Public Participation	Describes the procedures for public participation.
19.407	Permit Amendments	Describes the procedures for amending a permit.
19.408	Exemption from Permitting	Identifies construction activities which are exempt from permitting.
19.409	Transition	Provides for sources which become subject to Regulation 19 as of the effective date of the Regulation to submit application meeting Regulation 19 requirements within 180 days the date that Regulation 19 became effective as a State regulation (February 15, 1999).
19.410	Permit Revocation and Cancellation	Describes when the ADEQ may revoke or cancel a permit.
19.411	General Permits	Describes provisions by which a source may obtain a general permit.
19.412	Dispersion Modeling	Describes the requirements for dispersion modeling to demonstrate compliance with the NAAQS.
19.413	Confidentiality	Provides for confidential treatment of information or trade secrets which are included in a permit application.

The TSD contains a more detailed description of each section and a detailed discussion of the basis for how each Section of Chapter 4 meets the Federal requirements in 40 CFR part 51, subpart I. The requirements of subpart I are discussed in greater detail in section VII.G of this preamble.

B. Does Arkansas Address the Minor Source Review Requirements in Any In Other Part of Regulation 19?

Arkansas also addresses requirements of 40 CFR part 51, subpart I in the following sections of Regulation 19:

- Section 19.303. Department Responsibilities
- Section 19.502. General Regulations
- Section 19.504. Stack Height/Dispersion Regulations

Our analysis of Arkansas minor source review program includes our analysis of the new source review provisions of these sections in addition to the provisions of Chapter 4.²

² This section of the preamble only addresses Chapters 3 and 5 that pertain to minor source review. Other provisions of these Chapters, not related to minor source review are discussed elsewhere in this preamble as follows: Chapter 3 is discussed in Section VI and Chapter 5 is discussed in Section VIII.

C. What Is Minor Source Review?

Minor source review is the assessment of the emissions and their impacts on the ambient air from new and modified minor sources. The ADEQ adopted and submitted Chapter 4 as a revision to its SIP which includes its minor source review provisions. Chapter 4 includes a mechanism to assure that the emissions from new and modified minor sources:

- Do not violate the control strategy in its approved SIP and
- Do not interfere with the maintenance and attainment of the NAAQS.

D. Why Is Minor Source Review Needed in the SIP?

Minor source review is required by section 110(a)(2)(C) of the Act which requires each plan to “include a program to provide for the * * * regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the national ambient air quality standards are achieved * * *”

We also require plans to address the construction and modification of a facility, building, structure, or installation in 40 CFR part 51, subpart I—Review of New Sources and Modifications (subpart I). These

provisions require the plan to include provisions which ensure that new and modified sources will not violate applicable portions of the control strategy and will not interfere with the attainment or maintenance of a NAAQS.³ See 40 CFR 51.160(a).

E. What Is a Minor Source?

A minor source is any source which does not meet the definition of a major source. The Act in section 302(j) defines the terms “major stationary source” and “major emitting facility” as “any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).” Regulation 19.903(B) adopts these definitions. The provisions of Regulation 19, Chapter 4 apply only

³ Subpart I applies to the construction and modification of all sources, including major and minor sources. Chapter 4 of Regulation 19 only addresses the review requirements applicable to minor sources. Arkansas addresses the review requirements for major sources in Regulation 19, Chapter 9—Prevention of Significant Deterioration (discussed in section XII of this preamble), and in Chapter 11—Major Source Permitting Procedures (discussed in section XIV of this preamble).

to sources which are not "major" under this definition.

F. What Are the Federal Requirements for Review of New or Modified Minor Sources?

As mentioned in section VII.C, the requirements of a program for review of new and modified sources are contained in subpart I. This subpart consists of sections 51.160–51.164 which apply to

the review of new and modified sources.⁴ We can approve any implementation plan which meets these requirements.

G. Do the Minor Source Review Provisions of Chapters 3, 4, and 5 Meet the Requirements of Subpart I?

The Tables 3 and 4 outline the requirements of subpart I and identifies the provisions of Regulation 19 which

satisfy these subpart requirements.⁵ The TSD contains a more detailed discussion on the subpart I requirements and of the Regulation 19 provisions which meet the requirements in subpart I.

TABLE 3.—CHART COMPARING 40 CFR PART 51, SUBPART I TO ARKANSAS REGULATION 19, CHAPTERS 3, 4, AND 5

Provision of 40 CFR 51, subpart I	State rule for minor sources
Section 51.160 Legally enforceable procedures	
(a) Determine whether proposed construction or modification will violate control strategy or interfere with attainment or maintenance of a NAAQS.	Sections 19.401, 19.402, 19.403, 19.405, 19.407, 19.408, 19.410, 19.411, and 19.502.
(b) Prevent construction or modification which does not meet paragraph (a) as described above.	Sections 19.303, 19.402, 19.405, 19.410, 19.411, and 19.502.
(c) Submission of required information by owner or operator of source undergoing construction or modification.	Sections 19.404 and 19.405.
(d) Approval to construct does not affect responsibility to comply with control strategy.	Sections 19.303, 19.403, and 19.502.
(e) Identify types and sizes of facilities, buildings, structures, or installations that are subject to review.	Sections 19.401, 19.407, 19.40, 19.411, and Appendix A.
(f) Air quality data and dispersion and other air quality modeling	Sections 19.302 and 19.412.
Section 51.161 Public availability of information	
(a) State or local agency must provide opportunity for public comment on information submitted, and include agency's analysis of effects the construction or modification on ambient air quality, and the agency's proposed approval or disapproval.	Sections 19.405, 19.406, and 19.411.
(b) Minimum requirements for public notice	Sections 19.406 and 19.411.
(c) Public comment period other than 30 days if 30-day comment period conflicts with existing requirements.	N/A.
(d) Send copy of public notice to the EPA Regional Office, all other State and local air pollution control agencies having jurisdiction.	Section 19.406.
Section 51.162 Identification of responsible agency.	
Identify State or local agency responsible for meeting requirements of 40 CFR part 51, subpart I.	§ 19.405
Section 51.163 Administrative procedures	
Identify the administrative procedures that the responsible agency will follow in making the determination in 40 CFR 51.160.	Sections 19.404, 19.405, 19.406, 19.407, 19.408, 19.409, 19.410, 19.411, and 19.413.
Section 51.164 Stack height procedures	
The degree of emission limitation must not be affected by stack height that exceeds good engineering practice.	§ 19.504.

TABLE 4.—CHART COMPARING ARKANSAS REGULATION 19, CHAPTERS 3, 4, AND 5 TO 40 CFR PART 51, SUBPART I

State rule for minor sources	Provision of 40 CFR 51, subpart I
Chapter 3—Protection of the National Ambient Air Quality Standards	

Section 19.303. Regulated Sources Responsibilities Section 51.160(d).

⁴ Subpart I also includes sections 51.165, Permit requirements, and 51.166—Prevention of significant deterioration of air quality (PSD). The requirements of these sections apply only to the construction and modification of major sources as defined in those sections. Section 51.165 is applicable to the permitting of major sources and major modifications in nonattainment areas. At present,

Arkansas has no nonattainment areas and section 51.165 does not apply. Section 51.166 applies to sources subject to PSD and is discussed in more detail in our evaluation of the PSD program in Chapter 9. See the discussion of the PSD program in section XII of this preamble.

⁵ Please note that Tables 3 and 4 identify the provisions of Regulation 19 which satisfy the

requirements of subpart I. In addition to Chapter 4—Minor Source Review, certain requirements of subpart I are also satisfied in a portion of Chapter 3—Protection of the National Ambient Air Quality Standards and Chapter 5—General Emission Limitations Applicable to Equipment.

TABLE 4.—CHART COMPARING ARKANSAS REGULATION 19, CHAPTERS 3, 4, AND 5 TO 40 CFR PART 51, SUBPART I—Continued

State rule for minor sources	Provision of 40 CFR 51, subpart I
Chapter 4—Minor Source Review	
Section 19.401. General Applicability	Section 51.160(a) and (e).
Section 19.402. Approval Criteria	Section 51.160(a)–(b).
Section 19.403. Owner/Operator’s Responsibilities	Section 51.160(d).
Section 19.404. Required Information	Sections 51.160(c) and 51.163.
Section 19.405. Action on Application	Sections 51.160(a)–(c); 51.161(a); 51.162; and 51.163.
Section 19.406. Public Participation	Sections 51.160(b); 51.161(a)–(b), and (d); and 51.163.
Section 19.407. Permit Amendments	Sections 51.160(a), (e); and §51.163.
Section 19.408. Exemptions from Permitting	Sections 51.160(a), (e); and 51.163.
Section 19.409. Transition	Section 51.163.
Section 19.410. Permit Revocation and Cancellation	Sections 51.160(a)–(b); and 51.163.
Section 19.411. General Permits	Sections 51.160(a)–(b), and (e); 51.161(a)–(b); and 51.163.
Section 19.412. Dispersion Modeling	Section 51.160(f).
Section 19.413. Confidentiality	Section 51.163.
Chapter 5—General Emission Limitations Applicable to Equipment	
Section 19.502. General Regulations	Section 51.160(a)–(b).
Section 19.504. Stack Height/Dispersion Regulations	Section 51.164.

G. Are the Minor Source Review Provisions of Chapters 3, 4, and 5 Approvable?

As shown in Tables 3 and 4 above, the Minor Source Review provisions of Chapters 3, 4, and 5 meet the requirements of subpart I. We therefore find that these provisions meet the requirements of the Act and the requirements of subpart I. We therefore propose to approve these Minor Source Review provisions of Regulation 19.

VIII. General Emission Limitations Applicable to Equipment—Chapter 5

A. What Has Changed Since the Last Approval?

The currently approved SIP was approved on January 12, 1982 (47 FR 01291), January 14, 1982 (47 FR 02113), and February 23, 1989 (54 FR 07764). Emission limitations were previously documented in Arkansas ROP, Sections 5 and 8. Section 5 contained the regulations for new and modified equipment. Section 8 contained the regulations for existing equipment. The current Chapter 5 consolidates ROP Sections 5 and 8 into a single regulation. The Chapter generally defines the Federally regulated air pollutant limitations applicable to all equipment subject to the plan.

The Chapter is divided into Sections defining the Purpose (Section 19.501), General Regulations (Section 19.502), Visible Emission Regulations (Section 19.503), Stack Height/Dispersion Regulations (Section 19.504), and Revised Emission Limitations (Section 19.505).

The Sections on General Regulations (19.502) and Stack Height/Dispersion

(19.504) are discussed in Tables 3 and 4 in section IV of this preamble. These Tables identify the requirements of subpart I which these portions of Regulation 19 satisfy.

Section 19.503 documents the requirements for visible emissions and combines the requirements for new, modified, and existing equipment. It has been updated with terminology consistent with EPA Method 9 for the determination of opacity of visible emissions (40 CFR part 60, Appendix A).

Section 19.505 permits the Director to revise emission limitations upward or downward in certain situations. The Director may impose more restrictive emission limitations if necessary to protect the NAAQS. The Director may not approve a less stringent limitation if it would cause a violation of the NAAQS.

B. Is Chapter 5 Approvable?

Since the Chapter only consolidates requirements for new, modified, and existing equipment for visible emissions and updates the terminology, satisfies some requirements for subpart I, and restricts the Director’s ability to approve revised emission limitations if the revision would violate the NAAQS, we propose approval of Chapter 5.

IX. Upset and Emergency Conditions—Chapter 6

A. What Has Changed Since the Last Approval?

The currently approved SIP was approved on August 27, 1981, 46 FR 43145. The provisions for upset conditions were previously contained in

Arkansas ROP, Section 6. The current requirements in the event of an upset are documented in Chapter 6, Section 19.601. The requirements relating to an Emergency condition are contained in Section 19.602.

Section 601 defines an upset condition and sets requirements for action to minimize or eliminate the excess emissions. This Section meets the “enforcement discretion” approach and the “affirmative defense” criteria stated in EPA’s Excess Emission Policy (see memo *State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown* from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation, to Regional Administrators, Regions I–X, September 20, 1999). It also establishes reporting requirements which meet the record keeping and reporting aspects of an exceedence.

Section 602 defines emergency condition, such as acts of nature which are beyond the control of the source or operator. It also outlines the steps required to take acceptable corrective action when emissions are exceeded.

B. Is Chapter 6 Approvable?

Chapter 6 meets EPA’s policy on excess emissions, contains the necessary elements to make the requirements enforceable and is consistent with the current SIP. We propose approval of Chapter 6.

X. Sampling, Monitoring, and Reporting Requirements—Chapter 7

A. What Has Changed Since the Last Approval?

Sampling, monitoring, and reporting requirements were previously documented in Arkansas ROP, Section 7. The currently approved SIP was approved on August 27, 1981, 46 FR 43145. These requirements are now documented in Chapter 7, Section 19.701 through 19.706. In general, Chapter 7 applies only to federally regulated air pollutant emissions.

The Chapter is divided into Sections defining the Purpose of the Chapter (Section 19.701), requirements for Air Emissions Sampling (Section 19.702), Continuous Emissions Monitoring (Section 19.703), and Record Keeping and Reporting (Section 19.705). The Chapter has added Sections for a Notice of Completion (Section 19.704) and Public Availability of Emissions Data (Section 19.706).

The Sections on Air Emissions Sampling, Continuous Emissions Monitoring, and Record Keeping and Reporting are contextually similar to the previously approved SIP.

The Section added on Notice of Completion requires that for equipment for which a new major permit or major permit modification is required, the Department shall be notified in writing within 30 days of the date of commencement of construction or modification and the date of commencement of operation of the equipment.

The Section added for Public Availability of Emission Data requires that data obtained by the Department shall be correlated in units of applicable emissions limitations and made available to the public.

B. Is Chapter 7 Approvable?

Since the Chapter's major change is to make the requirements applicable to Federally regulated air pollutants, which is acceptable, the added Sections increase requirements, and the remaining sections are essentially unchanged, we propose approving Chapter 7.

XI. 111(d) Designated Facilities—Chapter 8

Under Section 111(d) of the Act, emission standards are to be adopted by the States and submitted to the EPA for approval. These standards limit the emissions of designated pollutants from existing facilities which, if new, would be subject to the NSPS. The procedures under which States submit these plans to control existing sources are defined

in 40 CFR part 60, subpart B. The submittal and review process of these State Plans is carried out separately from other SIP activities. We are thus taking no action on Chapter 8 in today's proposal.

XII. Prevention of Significant Deterioration of Air Quality—Chapter 9.

A. How Does Arkansas' SIP Currently Address PSD?

Currently, the SIP requirements for PSD are approved as the PSD Supplement to the Arkansas Plan of Implementation For Air Pollution Control. We approved the initial plan submitted by the Governor on April 23, 1981 (adopted April 10, 1981), and revisions submitted June 3, 1988 (adopted March 25, 1988) and June 19, 1990 (adopted May 25, 1990). We approved the current Arkansas PSD program on May 2, 1991 (56 FR 20137). The current PSD program is documented in 40 CFR 52.170(c) in the table "EPA Approved Regulations in the Arkansas SIP" and 40 CFR 52.181.

B. How Does Regulation 19 Address PSD?

Arkansas recodified its PSD program in Regulation 19, Chapter 9. Chapter 9 recodifies the PSD regulations without substantive change except as discussed below.

C. What Has Changed Since Our Last Approval of Arkansas' PSD Program?

We replaced the PSD increments for TSP with increments for PM-10 on June 3, 1993 (58 FR 31622). We promulgated this revision to the Federal PSD permitting regulations in 40 CFR 52.21, as well as revision to the PSD permitting requirements that State programs must meet in order to be approved into the SIP in 40 CFR 51.166.

These revised regulations specified the implementation date for States with SIP-approved PSD permitting programs (including Arkansas) as the date that we approve the revised State PSD program containing the PM-10 increments. In accordance with 40 CFR 51.166(a)(6)(i), each State with a SIP-approved PSD program was required to adopt the PM-10 increment requirements, which Arkansas submitted and which we are approving in this action. For further background regarding the PM-10 increments, see the June 3, 1993, **Federal Register** document.

In order to address the PM-10 increments, the State of Arkansas revised Regulation 19, Chapter 9. Arkansas changed the date of which the Federal regulations are incorporated by

reference from June 28, 1989 to June 3, 1994 (the effective date of the PM-10 increments). We have reviewed this revision and found that it addresses all of the required regulatory revisions for PM-10 increments. In today's action we propose to approve the recodification of Arkansas' PSD program and the revisions to incorporate the PM-10 increments into the SIP. We are also proposing, consistent with Arkansas' revisions, to remove the TSP area designation tables in 40 CFR part 81 for Arkansas.

D. Why Are We Removing the TSP Area Designation Tables in 40 CFR Part 81 for Arkansas?

Section 107(d) of the 1977 Amendments to the Act authorized each State to submit to the Administrator a list identifying those areas which: (1) do not meet a NAAQS (nonattainment areas), (2) cannot be classified on the basis of available ambient data (unclassifiable areas), and (3) have ambient air quality levels better than the NAAQS (attainment areas). In 1978, we published the original list of all area designations pursuant to section 107(d)(2) (section 107 areas), including those designations for TSP, in 40 CFR part 81.

One of the purposes stated in the Act for the section 107 areas is for implementation of the statutory requirements for PSD. The PSD provisions of part C of the Act generally apply in all section 107 areas that are designated attainment or unclassifiable (40 CFR 52.21(l)(3)). Under the PSD program, the air quality in an attainment or unclassifiable area is not allowed to deteriorate beyond prescribed maximum allowable increases in pollutant concentrations (*i.e.*, increments).

We revised the primary and secondary NAAQS for particulate matter on July 1, 1987 (52 FR 24634), eliminating TSP as the indicator for the NAAQS and replacing it with the PM-10 indicator. However, we did not delete the section 107 areas for TSP listed in 40 CFR part 81 at that time because there were no increments for PM-10 promulgated at that time.⁶ States were required to continue implementing the TSP increments in order to prevent significant deterioration of particulate matter air quality until the PM-10 increments replaced the TSP

⁶ We did not promulgate new PM-10 increments simultaneously with the promulgation of the PM-10 NAAQS. Under section 166(b) of the Act, we are authorized to promulgate new increments "not more than two years after the date of promulgation of * * * standards." Consequently, we temporarily retained the TSP increments, as well as the section 107 areas for TSP.

increments. With the State adoption and implementation of the PM-10 increments becoming effective, the TSP area designations generally serve no useful purpose relative to the PSD program. Instead, the PM-10 area designations now serve to properly identify those areas where air quality is better than the NAAQS, *i.e.*, "PSD areas," and to provide the geographic link necessary for implementation of the PM-10 increments.⁷

Thus, in the June 3, 1993, **Federal Register** document in which we promulgated the PM-10 increments, we stated that, for States with SIP-approved PSD programs, we would delete the TSP area designations at the same time we approve the revision to a State's plan incorporating the PM-10 increments. In deleting any State's TSP area designations, we must ensure that the deletion of those designations will not result in a relaxation of any control measures that ultimately protect the PM-10 NAAQS.

As stated above, Arkansas has adopted and submitted adequate PSD revisions for PM-10 increments. In addition, Arkansas has no TSP areas designated as nonattainment. All existing particulate control measures in the Arkansas SIP remain in effect to ensure continuing attainment and maintenance of the PM-10 standard throughout the State. Thus, deletion of the TSP area designations will not result in relaxation of any PM controls that would impact the PM-10 NAAQS. We believe it is appropriate at this time to delete the State's TSP designation tables in 40 CFR 81.304.

Consistent with the above discussion, we are proposing to delete all of Arkansas' existing TSP designation tables in 40 CFR 81.304 and placing these section 107 areas into the PM-10 area designation table in 40 CFR 81.304, consistent with the June 3, 1993 **Federal Register**.

E. Is Chapter 9 approvable?

The only significant changes to Chapter 9 is to incorporate the requirements for the PSD increments for PM-10. Since we have determined that the changes meet the requirements of the Act and of the Federal PSD requirements, we are proposing to approve Chapter 9. We are also proposing to TSP area designation tables in 40 CFR part 81 for Arkansas.

⁷ Section 107(d)(4)(B)(iii) of the Act mandates that all areas not designated nonattainment for PM-10 by operation of law, are designated unclassifiable. The PM-10 increments apply in any area designated unclassifiable for PM-10.

XIII. Regulations for the Control of Volatile Organic Compounds—Chapter 10

A. What has changed since the last approval?

The currently approved SIP was approved, in general, January 29, 1980 (45 FR 06569) as Arkansas volatile organic compound (VOC) Regulations, Sections 1 through 6. The most recent revision to Sections 3 and 4 was on October 13, 1981 (46 FR 50370). The most recent revision to Section 5 was on February 7, 1983 (48 FR 05722). The current Regulation integrates the VOC rules into Regulation 19 as Chapter 10, Sections 19.1001 through 19.1006. The Regulation 19 Sections are essentially the same as the Arkansas VOC Rules Sections. The Regulation 19 Sections are Title (19.1001), Purpose (19.1002), Definitions (19.1003), General Provisions (19.1004), Provisions for Specific Processes (19.1005), and Severability (19.1006).

Sections 19.1003 and 19.1004 were changed by moving definitions for "Volatile Organic Compounds," "Sources," "Organic compounds with negligible photochemical reactivity," "Commission," and "Potential to emit" to Chapter 2 containing other definitions.

Section 19.1004 contains only minor wording changes which corrected previous version or removed redundant wording. The requirement for Lowest Achievable Emission Rate for new major sources is changed to mirror the requirements of the Act which are in effect as of the effective date of this regulation. This change updates the requirements to the Federal Clean Air Act requirements.

Section 19.1005 relating to *Surface Coating of Metal Parts and Products* was changed such that the requirement that if more than one emission limitation applies to a specific coating, then the most (rather than the least) stringent emission limitation shall be applied. Section 19.1005(F) relating to *External Floating Roof Tanks* was changed to reduce the gap area between the secondary seal and tank wall for vapor mounted seals. This is a more stringent requirement.

All other Sections in Chapter 10 were unchanged.

B. Is Chapter 10 approvable?

Since Chapter 10, VOC Regulations, is essentially the same as the previously approved VOC Regulations and the minor changes are acceptable, we propose approval of Chapter 10.

XIV. Major Source Permitting Procedures—Chapter 11

A. What Does Chapter 11 Require?

Chapter 11 of Regulation 19 addresses the permitting procedures for major sources which are also subject to Regulation 26, Arkansas' regulation for its operating permit program under title V.⁸ Chapter 9 contains the process, already approved by EPA⁹ for issuance of a new or major modification of an existing source which is major for purposes of PSD by virtue of incorporation by reference of the provisions of 40 CFR 52.21(b)-(r).¹⁰ Chapter 11 requires major sources which are subject to Regulation 26 to also have their permit applications processed in accordance with the procedures contained in Regulation 26, which are incorporated by reference. Thus, Chapter 11 creates the nexus between the PSD and title V programs to allow Arkansas to issue one permit to its sources which are defined as major under both programs.

For minor sources, the permitting process is contained in Chapter 4 which complies with 40 CFR 51.160-51.164 as explained above. The process for issuance of major and minor construction permits was formerly in section 4 of the ROP. Chapters 4 and 9 of Regulation 19 do not, however, fully cover all PSD sources defined as major sources under section 302(j) of the Act and subject to Section 4 of the ROP. Chapter 11 is necessary to provide a process for permitting the following:

- Sources which are major for purposes of PSD but undergo a physical change or change in the method of operation which does not result in a significant net emission increase, *i.e.*, minor modifications. Such change therefore is not subject to PSD review.¹¹

⁸ This refers to the provisions of title V (Permits) of the Act (42 U.S.C. 7661, 7661a-7661f) and the implementing regulations under 40 CFR part 70 (State Operating Permit Programs). These provisions establish the elements that an operating permits program must meet under part 70. Arkansas' Regulation 26 contains the requirements of their operating permits program. Arkansas currently operates its title V program under an interim approval. See 60 FR 46171 (September 8, 1995). Arkansas is currently working with EPA to revise Regulation 26 to correct the deficiencies identified in the interim approval.

⁹ See section XII in this preamble for a description of our approval of Arkansas' PSD program and of our evaluation of Chapter 9.

¹⁰ Chapter 9, Section 19.904(A) incorporates the provisions of 40 CFR 52.21 (b) through (r).

¹¹ For purposes of PSD, 40 CFR 52.21(i)(1) provides that no stationary source or modification to which the paragraphs (j)-(r) apply shall begin actual construction without a permit which states that the source or modification meets such requirements. The provisions of section 52.21(j)-(r)

Subpart I, however, applies to the construction of all sources, including major and minor sources. Such change, therefore, must meet the applicable requirements of subpart I, sections 51.160–51.164. Regulation 26 contains the provisions which satisfy these provisions of subpart I.¹² These provisions are incorporated into Regulation 19 by Chapter 11.

- A source which is major for title V but not major for PSD. This would include a source whose potential to emit is 100 tons per year (TPY) or more but less than 250 TPY and is not one of the source types listed in 40 CFR 52.21(b)(1).¹³ Although a new or modified source which is not a PSD major source is not subject to PSD, the

applicable requirements of subpart I, sections 51.160–51.164 nonetheless continue to apply as explained above. Regulation 26 contains the provisions which satisfy these provisions of subpart I.¹⁴ These provisions are incorporated into Regulation 19 by Chapter 11.

Chapter 11 incorporates the applicable requirements of subpart I (sections 51.160–164) that are in Regulation 26 into Regulation 19, which we are proposing to approve into the SIP. By approving Chapter 11, we will also be approving the subpart I provisions of Regulation 26 which are incorporated by reference.

Through Chapter 11, Arkansas will ensure that the construction and modification of sources subject to the

Act's preconstruction review requirements will meet the applicable requirements of 40 CFR part 51, subpart I. The TSD includes our analysis of the provisions of Regulation 26 which ADEQ incorporates by reference into Regulation 19. The TSD documents how Regulation 26 meets the requirements of 40 CFR part 51, subpart I. It further demonstrates that the procedures in Regulation 26 will ensure that modifications which occur at title V sources will satisfy the requirements of the Act and subpart I. Table 4 below identifies the provisions of Regulation 26 which meet the requirements of subpart I. The TSD contains a detailed evaluation of how the subpart I requirements are met.

TABLE 4.—SUBPART I CHECKLIST—REVIEW OF NEW SOURCES AND MODIFICATIONS REVIEW REGULATIONS FOR ARKANSAS REGULATION 26 SOURCES

Requirement of 40 CFR part 51, subpart I	Provisions of Regulation 19 and 26 which meet subpart I
Section 51.160 Legally enforceable procedures	Section 26.3(a)–(b). Section 26.4(a)–(b), (h), (j)–(k). Section 26.5(a)(1), (3)–(4), and (b). Section 19.302(A)–(B). Section 19.303(A)–(C). Section 19.502(A)–(C).
Section 51.161 Public availability of information	Section 26.6(a), (b)(1)(i)–(ii), (v), (b)(4), (c)(1)–(2), (d)(1)–(2).
Section 51.162 Identification of responsible agency.	N/A (already in approved plan).
Section 51.163 Administrative procedures	Section 26.3(a)–(b). Section 26.4(a)–(b), (h), (j)–(k). Section 26.5(a)(1), (3)–(4), and (b). Section 19.302(A)–(B). Section 19.303(A)–(C). Section 19.502(A)–(C).
Section 51.164 Stack height procedures	Section 26.6(a), (b)(1)(i)–(ii), (v), (b)(4), (c)(1)–(2), (d)(1)–(2). Section 19.504.
Section 51.165 Permit Requirements. (nonattainment)	N/A.
Section 51.166 Permit Requirements (PSD)	Regulation 19, Chapter 9.

Consistent with the above table, the ADEQ on March 21, 2000, forwarded a supplementary request that we incorporate only the provisions of

Regulation 26 identified in Table 5 below into the SIP which in satisfaction of subpart I requirements. Accordingly we propose to incorporate the following

provisions of Regulation 26 as shown in Table 5 below.

TABLE 5.—PROVISIONS OF REGULATION 26 PROPOSED TO BE INCORPORATED INTO THE SIP

Provision of Regulation 26 to be incorporated into the SIP	Title of section
Section 26.3	Requirements for a Permit, Applicability.
Section 26.3(a)	Requirement for a permit.
Section 26.3(b)	Sources subject to permitting.
Section 26.4	Applications for Permits.
Section 26.4(a)	Duty to apply.
Section 26.4(b)	Standard application form and required information.

apply to the construction of major sources and major modifications. "Major stationary source" is defined in section 52.21(b)(1) and "major modification" is defined in section 52.21(b)(2). A major modification is a physical change or change in the method of operation at a major stationary source which results in a significant net emissions increase. "Net emissions increase" is defined in section 52.21(b)(3) which describes how the net emissions increase is determined. Such increase is significant if it equals or exceeds the significance

thresholds in section 52.21(b)(23). Thus minor modifications at major stationary sources do not fall within the purview of the PSD requirements.

¹² According to Regulation 26, Section 26.2(e), "applicable requirement" is defined as "Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under title I of the Act* * *(PSD *inter alia*) (this includes Regulation 19 Chapter 3 which requires protection of the NAAQS).

¹³ Section 52.21(b)(1) is the definition of "major stationary source." Under this definition, a source is major for PSD if its PTE is 100 TPY or more and the source belongs to one of the source categories listed in section 52.21(b)(1)(i)(a). Otherwise, a source is a PSD major only if its PTE is 250 TPY or more, pursuant to section 52.21(b)(1)(i)(b). Under section 302(j) of the Act and 40 CFR part 70, a "major source" includes any stationary source with a PTE of 100 TPY or more.

¹⁴ See footnote 12.

TABLE 5.—PROVISIONS OF REGULATION 26 PROPOSED TO BE INCORPORATED INTO THE SIP—Continued

Provision of Regulation 26 to be incorporated into the SIP	Title of section
Section 26.4(h)	Complete application.
Section 26.4(j)	Applicant's duty to supplement application.
Section 26.4(k)	Certification by responsible official.
Section 26.5	Action on Application.
Section 26.5(a)(1), (3)–(4)	Action on part 70 applications.
Section 26.5(b)	Final action on permit application.
Section 26.6	Permit Review by the Public, Affected States, and EPA.
Section 26.6(a)	Untitled.
Section 26.6(b)(1)(i)–(ii), (v), (b)(4)	Public participation.
Section 26.6(c)(1)–(2)	Transmission of permit information to the Administrator.
Section 26.6(d)(1)–(2)	Review of draft permit by affected states

Our analysis of these provisions of Regulation 26¹⁵ are from the version of Regulation 26 which Arkansas adopted July 23, 1993, and submitted to us on October 29, 1993. The EPA approved this version of Regulation 26 as described in footnote 8. We will need to reexamine our analysis if Arkansas adopts Regulation 26 with significant changes and Arkansas may need to make further revisions to its SIP.

B. Is Chapter 11 Approvable?

Consistent with the discussion above and in the TSD, Chapter 11 meets the requirements of 40 CFR part 51, subpart I and are approvable.

XV. Insignificant Activities List—Appendix A

Are There Any Activities That Do Not Need a Permit or Permit Revision?

Section 19.408(A) of Regulation 19 provides that the types of activities or emissions that are listed in Appendix A are deemed insignificant on the basis of size, emission rate, production rate, or activity. By such listing, the Department exempts certain sources or types of sources from the requirements to obtain a permit or plan under this regulation. Listing in this part has no effect on any other law to which the activity may be subject. Any activity for which a state or Federal applicable requirement applies (such as NSPS, NESHAP, or Maximum Achievable Control Technology) is not insignificant, even if this activity meets the criteria below.

The TSD contains a detailed analysis of Section 19.408 and of Appendix A and a discussion of how these provisions meet subpart I.

B. Is Appendix A Approvable?

Consistent with our evaluation of Section 19.408 and of Appendix in the

TSD, these provisions of Regulation 19 are approvable.

XVI. Proposed Action

We are proposing to approve the provisions of Regulation 19 as described in Table 6 below:

TABLE 6.—CHAPTERS AND APPENDICES IN REGULATION 19 THAT EPA PROPOSES TO APPROVE

Chapter	Title
Chapter 1	Title, Intent, and Purpose.
Chapter 2	Definitions.
Chapter 3	Protection of the National Ambient Air Quality Standards.
Chapter 4	Minor Source Review.
Chapter 5	General Emission Limitations Applicable to Equipment.
Chapter 6	Upset and Emergency Conditions.
Chapter 7	Sampling, Monitoring, and reporting Requirements.
Chapter 9	Prevention of Significant Deterioration.
Chapter 10	Regulations for the Control of Volatile Organic Compounds.
Chapter 11	Major Source permitting Procedures.
Appendix A	Insignificant Activities List.

We are taking no action on Chapter 8—Designated Facilities in today's proposal. As discussed in section XI, we review and approve the State Plans for designated facilities under subpart B of 40 CFR part 60. We will review and process Chapter 8 of Regulation 19 in a separate action.

XVII. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13132

Executive 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612, "Federalism," and Executive Order 12875, "Enhancing the Intergovernmental Partnership." Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

¹⁵ Regulation 26 is Arkansas' regulation for its operating permit program under title V. Arkansas currently operates its title V program under an interim approval. See 60 FR 46171 (September 8, 1995).

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it approves a State program.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of

section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes

no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen oxides, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: April 28, 2000.

Carl E. Edlund,

Acting Regional Administrator, Region 6

[FR Doc. 00-11566 Filed 5-8-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6601-2]

Montana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant Final authorization to the hazardous waste program changes submitted by Montana. In the "Rules" section of this **Federal Register**, we are authorizing the State's program changes as an immediate final rule without a prior proposed rule because we believe this action as not controversial. Unless we get written comments opposing this authorization during the comment period, the immediate final rule will become effective and the Agency will not take further action on this proposal. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. EPA will address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: We must receive your comments by June 23, 2000.

ADDRESSES: Send written comments to Kris Shurr, 8P-HW, U.S. EPA, Region VIII, 999 18th St, Ste 500, Denver, Colorado 80202-2466, phone number: (303) 312-6139. You can view and copy Montana's application at the following addresses: Air and Waste Management Bureau, Permitting and Compliance