



PPGMR LAW, PLLC
101 MORGAN KEEGAN DRIVE, SUITE A | LITTLE ROCK, AR 72202
P.O. BOX 251618 | LITTLE ROCK, AR 72225-1618
TEL: (501) 603-9000 | FAX: (501) 603-0556 | PPGMRLAW.COM
LITTLE ROCK | EL DORADO

August 14, 2017

Ms. Tricia Treece
Office of Air Quality
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Via electronic delivery treecep@adeq.state.ar.us

**RE: COMMENTS OF ENERGY AND ENVIRONMENTAL ALLIANCE OF ARKANSAS ON
PROPOSED REVISIONS TO THE ARKANSAS STATE IMPLEMENTATION PLAN:
REGIONAL HAZE SIP REVISION FOR THE 2008 – 2018 PLANNING PERIOD**

Dear Ms. Treece:

The Energy and Environmental Alliance of Arkansas (“EEAA”) appreciates your consideration of the following comments on the proposed revision to Arkansas Regional Haze State Implementation Plan (“SIP”) for the 2008 – 2018 planning period that were proposed by the Arkansas Department of Environmental Quality (“ADEQ”) on July 8, 2017. The Proposed Revisions would address best available retrofit technology (“BART”) and reasonable progress requirements for emissions of nitrogen oxides (“NOx”) at electric generating units (“EGUs”) in Arkansas. If these revisions are finalized and approved by the U.S. Environmental Protection Agency (“EPA”), compliance with the Cross-State Air Pollution Rule (“CSAPR”) would satisfy EGUs’ NOx BART obligations for the Regional Haze Program, as well as NOx reasonable progress obligations for the first planning period.

The EEAA is an ad-hoc collaboration of Arkansas’ investor-owned, co-operative, municipal, and independent electric utilities and other energy companies formed to advocate, communicate and encourage energy and environmental policies that promote sound and predictable regulation of Arkansas’ utility industry and support an economically viable and environmentally secure future for all Arkansans, including access to reliable and affordable energy resources. Many of the members off EEAA have ownership interests in the Arkansas EGUs which

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are subject to regulation under the proposed revisions to the Arkansas Regional Haze SIP.¹

COMMENTS

A. CSAPR Provides Greater Visibility Improvement than Source-Specific BART

Federal regulations for the Regional Haze Program clearly allow compliance with federal interstate air transport rules to satisfy BART requirements under the Regional Haze Program. EPA’s 1999 Regional Haze Rule (“RHR”) specifically provides that a state “subject to a [Transport Rule] trading program . . . need not require BART-eligible [EGUs] . . . to install, operate, and maintain BART” for the pollutant covered by a trading program.² The RHR specifically authorizes compliance through the Clean Air Interstate Rule (“CAIR”) trading program, and EPA has determined that participation in CSAPR, the successor to CAIR, also provides greater reasonable progress towards the national visibility goal than source-specific BART.³ Thus, states subject to the CSAPR trading program for ozone season NO_x may elect to forego source-specific BART for NO_x emissions from the subject-to-BART EGUs participating in the trading program.⁴

Arkansas is subject to CSAPR’s ozone season NO_x trading program.⁵ EPA previously determined that reductions under the original 2015 CSAPR emission budgets would achieve greater visibility improvement than reductions achieved through source-specific NO_x BART controls. The 2016 CSAPR Update Rule further reduced the ozone season NO_x budget for Arkansas from 15,110 tons in 2015 to 12,048 tons in 2017, with a further reduction to 9,210 tons of NO_x in 2018 and beyond.⁶ If the 2015 Arkansas ozone season NO_x emission budgets achieve greater visibility improvements than source-specific BART, it logically follows that further emissions reductions under the 2017 and 2018 CSAPR Update Rule will achieve greater visibility improvements than would have been achieved under the original CSAPR budgets.

B. Additional Controls are Not Necessary to Make Reasonable Progress Toward the Visibility Goal in the First Planning Period

Controls for reasonable progress are not necessary for the first planning period. The Clean Air Act requires that regional haze implementation plans contain measures “*necessary* to make

¹ EEAA members include Entergy Arkansas, Inc., Southwestern Electric Power Company, and Arkansas Electric Cooperative Corporation, each of whose individual comments EEAA adopts by reference as though fully set forth herein.

² 70 Fed. Reg. 39,104, 39,161 (July 6, 2005).

³ “[T]he trading programs in the Transport Rule, also known as the Cross-State Air Pollution Rule (CSAPR), achieve greater reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas than source-specific Best Available Retrofit Technology (BART) in those states covered by the Transport Rule.” 77 Fed. Reg. 33,642, 33,643 (June 7, 2012).

⁴ See *Nat’l Parks Conservation Ass’n v. McCarthy*, 816 F.3d 989, 995 (8th Cir. 2016) (upholding EPA’s approval of CSAPR as better than BART in Minnesota SIP).

⁵ 76 Fed. Reg. 48,208, 48,212-13 (Aug. 8, 2011).

⁶ 81 Fed. Reg. 74,504 (Oct. 26, 2016).

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reasonable progress toward meeting the national goal” of no manmade visibility impairment.⁷ The RHR specifies that states, in setting a reasonable progress goal, must consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve that uniform rate *for the period covered by the implementation plan*.⁸ EPA has further explained that the long-term goal of no manmade impairment encompasses several planning periods and it is reasonable for states to defer reductions to later planning periods in order to maintain a consistent glidepath toward the long-term goal.⁹ Mandating emissions controls during the planning period that are not necessary to make reasonable progress contradicts this directive.

Reasonable progress controls during the first planning period clearly are not necessary for Arkansas sources.¹⁰ Interagency Monitoring of Protected Visual Environments (“IMPROVE”) monitoring data show that the haze index has been consistently below the glidepath in Arkansas’ Class I areas – Caney Creek and Upper Buffalo – and ADEQ’s analysis demonstrates that it is projected to remain so through the end of the second planning period.¹¹ Accordingly, reasonable progress controls on Arkansas sources during the first planning period are not necessary to make reasonable progress.

Even if controls were required for reasonable progress during the first planning period, *NOx controls* on Arkansas EGUs are not necessary, as they will provide minimal visibility improvement in Arkansas’ Class I areas. As EPA’s own analysis indicates, the contribution of Arkansas point sources’ nitrate emissions to visibility impairment at Arkansas’ Class I areas is insignificant. According to EPA’s analysis, nitrate from all point sources included in the regional modeling is projected to account for only three percent (3%) of the total light extinction at the Caney Creek and Upper Buffalo Class I areas, with nitrate from Arkansas point sources being responsible for less than three-tenths of one percent (<0.3%) of the total light extinction at each area.¹² As a result, it is clear that *NOx controls* on Arkansas EGUs are not necessary to make reasonable progress towards natural visibility conditions during the first planning period.

Nonetheless, to the extent ADEQ determines that reductions in nitrates are needed in the first planning period, compliance with CSAPR will achieve greater reasonable progress than source-specific *NOx emissions* limitations and, accordingly, should be more than sufficient to demonstrate reasonable progress for *NOx* for the first planning period.¹³ First, emissions

⁷ 42 U.S.C. § 7491(b)(2) (emphasis added).

⁸ 40 C.F.R. § 51.308(d)(1)(i)(B) (emphasis added).

⁹ U.S. EPA, Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program, at 1-4 (June 1, 2007).

¹⁰ See Comments of EEAA on EPA Proposed Federal Implementation Plan for the State of Arkansas; Regional Haze and Interstate Visibility Transport dated August 7, 2015, at page 12.

¹¹ State Implementation Plan Review for the Five-Year Regional Haze Progress Report prepared by ADEQ Air Division Planning Branch, revised May, 2015.

¹² 80 Fed. Reg. 18,990.

¹³ ADEQ appropriately relies on the 1999 Regional Haze Rule, rather than the 2017 Revisions to the Regional Haze Rule, in its reasonable progress analysis. As EPA made clear in the preamble of the 2017 Revisions to the Regional Haze Rule, the Revised Rule “do[es] not affect the development and review of state plans for the first implementation period.” 82 Fed. Reg. 3,078, 3,080 (Jan. 10, 2017).

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reductions to comply with CSAPR will occur during the *first* planning period, which comports with the requirements of the applicable federal regulations. In contrast, most of the NOx reductions contemplated by the Arkansas Regional Haze FIP are unlikely to occur until after 2018, and are thus not *necessary* to make reasonable progress during the first planning period.¹⁴ Second, as noted above, the 2018 CSAPR trading program ozone season allocation for Arkansas EGUs totals 3,708 tons less than the total emissions from these sources in 2016. In comparison, if implemented, the NOx controls required by the Arkansas Regional Haze FIP would achieve only a 3,318 ton reduction in NOx emissions from 2016 Arkansas EGU annual emissions. Because participation in CSAPR will achieve greater NOx emissions reductions than EPA determined would be necessary to achieve reasonable progress (by nearly 400 tons), reliance on CSAPR clearly achieves greater reasonable progress towards visibility improvement than the source-specific emissions limitations in the Arkansas Regional Haze FIP. Additionally, most or all of the NOx controls to be installed at Arkansas' EGUs are combustion controls that are operational any time the EGU is operational, and therefore will provide emissions reductions throughout the year, not just during ozone season.

CONCLUSION

The Proposed Revisions, if finalized, would provide compliance flexibility and reduce the significant regulatory burden on the electricity sector, while still ensuring that visibility is as good as or better than it would be if source-specific NOx emission limits were required. Forcing sources that already must comply with the ozone-season NOx trading program under CSAPR to invest in costly BART and reasonable progress controls is duplicative and unduly burdensome, and ultimately unnecessary to achieve visibility improvements. EEAA supports ADEQ's determination that CSAPR satisfies the NOx BART and reasonable progress obligations for Arkansas EGUs, and urges ADEQ to finalize the revisions to Arkansas' SIP as proposed.

DATED: August 14, 2017

Respectfully Submitted,



Chad L. Wood
PPGMR LAW, PLLC

*Counsel for Energy and Environmental Alliance of
Arkansas*

¹⁴ EPA has proposed to extend the compliance deadline for NOx compliance for five EGUs until January 27, 2020, well into the second planning period, to account for real-world constraints on the timing of installation of NOx controls. 82 Fed. Reg. 32,284 (July 13, 2017).