



November 9, 2018

Ms. Tricia Treece
Office of Air Quality
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118
airplancomments@adeq.state.ar.us

RE: ADEQ Proposed Regional Haze State Implementation Plan Revision for Domtar Ashdown Mill

Dear Ms. Treece,

Please accept the following comments on behalf of the National Parks Conservation Association, the Sierra Club, and Earthjustice concerning the proposed Arkansas Regional Haze State Implementation Plan ("SIP") Revision regarding the proposed Domtar Ashdown Mill best available retrofit technology ("BART") determination. Exempting Domtar from BART is entirely without support and the BART alternative demonstration is deficient. Thus, the Arkansas Department of Environmental Quality ("ADEQ") must withdraw its proposal.

Our comments address the statement that ADEQ makes on page 17 of its SIP revision:¹ "Domtar is pursuing an exemption by EPA for Ashdown Mill from BART requirements pursuant to 40 C.F.R. § 51.303 ("§ 303 exemption"). ADEQ solicits comment on whether and how to consider Domtar's application to EPA for a §303 exemption in this SIP revision and/or the accompanying [Administrative Order]."

We object to any consideration by ADEQ of Domtar's pursuit of a BART exemption for Power Boilers 1 and 2 under § 51.303. To our knowledge, this exemption has never been granted in the history of the Regional Haze program, and for good reason. Once a source has been deemed to be subject to BART, it has already been determined to cause or contribute to visibility impairment. EPA identified these units as being subject to BART specifically because they do significantly impact visibility, most notably at the Caney Creek Wilderness, a designated Class I area. For instance, ADEQ itself notes in Tables 4 and 5 of its proposed SIP that the baseline impacts of these boilers exceed 1.0 deciview at Caney Creek using either its

¹ Revisions to the Arkansas State Implementation Plan, Phase III Regional Haze SIP Revision for 2008-2018 Planning Period, Prepared by the Arkansas Department of Environmental Quality Office of Air Quality Policy and Planning Branch, October 2018, Public Review Draft. Retrieved from <https://www.adeq.state.ar.us/air/planning/sip/regional-haze.aspx> on November 8, 2018.

Method 1 or Method 2 analysis. This level of impact far exceeds the minimum level EPA established in its BART Rule, indeed this level of impact is considered to *cause* visibility impairment.²

Even after the installation of BART controls, these units are still projected to impact the visibility at the Caney Creek Class I Area in excess of 0.5 deciviews, thereby exceeding even the contribution threshold. Section 51.303(a)(2) specifically rules out any consideration of EPA granting a BART exemption to any source which causes visibility impairment. Indeed, this prohibition applies even under the lesser standard of a source merely contributing to visibility impairment.³

We further note that in order to find that Domtar does not cause visibility impairment, ADEQ would have to modify the 1.0 deciview and 0.5 deciview thresholds it has used to determine whether a source causes or contributes to visibility impairment in a future revised SIP. However, it cannot do this, because as we state above, this would violate the Regional Haze Rule's "cause" and "contribute" visibility impairment thresholds.

The process for granting a BART exemption is intentionally deliberative and requires a number of steps. It appears that ADEQ has put the cart before the horse by assuming that it satisfies its SIP obligation for a Domtar BART exemption under § 51.303 by merely soliciting comments on the possibility of such an exemption. Section 51.303 requires that a BART exemption be initiated by Domtar through an application to EPA. There is no record in ADEQ's SIP that Domtar has submitted such an application to EPA. Should that application (which includes a number of requirements that we enumerate below) be granted, ADEQ must then include it in a SIP revision which undergoes public notice and comment.⁴ That SIP revision must contain a number of required elements.

Section 51.303(c) requires that any such exemption application to EPA be accompanied by a written concurrence from ADEQ. We are unaware that ADEQ has formally concurred with a BART exemption for Domtar and there is no such concurrence by ADEQ in its proposal. ADEQ merely solicits comment on such an action. Should ADEQ determine that it wishes to concur with Domtar's BART exemption, despite the obvious violation of the Regional Haze Rule such a concurrence would require, it must be included in its proposed SIP that is submitted for public comment. Here, this would necessitate a new or additional SIP revision and the re-opening of the public comment period.

² See 70 Fed. Reg. 39,104, 39,120 (July 6, 2005) ("we are clarifying that for purposes of determining which sources are subject to BART, States should consider a 1.0 deciview change or more from an individual source to 'cause' visibility impairment, and a change of 0.5 deciviews to 'contribute' to impairment").

³ See 40 C.F.R. § 51.303(a)(2) ("An application under this section must include all available documentation relevant to the impact of the source's emissions on visibility in any mandatory Class I Federal area and a demonstration by the existing stationary facility that it does not or will not, by itself or in combination with other sources, emit any air pollutant which may be reasonably anticipated to cause or contribute to a significant impairment of visibility in any mandatory Class I Federal area.").

⁴ See *id.* § 51.303(g) ("For purposes of judicial review, final EPA action on an application for an exemption under this § 51.303 will not occur until EPA approves or disapproves the State Implementation Plan revision.").

Section 51.303(d) requires that Domtar itself give written notice to any affected Federal Land Managers of any application it intends to submit to EPA for a BART exemption.⁵ We see no such notice in the public record for this proposal. Relatedly, Section 51.303(e) requires that any Federal Land Manager recommendation or comments become a part of the application Domtar would submit to EPA. Again, the mere solicitation of comments by ADEQ on such an exemption does not satisfy these requirements.

Under § 51.303(f), after evaluating Domtar's complete application (again containing ADEQ's concurrence, proof of Federal Land Manager Notice and any Federal Land Manager comments and/or recommendations), EPA must publish its findings. Following this, under § 51.303(g), it must then approve or disapprove ADEQ's SIP revision, which must include Domtar's full application.⁶

Again, we urge ADEQ to reject consideration of any BART exemption of the Domtar Ashdown Mill facility. Every technical evaluation EPA or ADEQ has presented, including its present proposed SIP revision, has demonstrated that the Domtar Power Boilers 1 and 2 cause visibility impairment. Should ADEQ disagree and pursue such a misguided course of action, it must follow the requirements of § 51.303.

In addition, ADEQ has failed to adequately demonstrate that the BART alternative would achieve greater reasonable progress than BART. First, the BART alternative results in an overall (Power Boilers units 1 + 2) increase of 323 lbs/hr SO₂ and a decrease of 68.3 lbs/hr NO_x. ADEQ claims that the NO_x decrease mitigates the SO₂ increase. The modeling results are not fully presented in Table 4 (which considers the Method 1 approach); results are shown only for Unit 2, not Unit 1. Moreover, the cumulative modeled improvement for the BART alternative is questionable. For a BART alternative to serve as an appropriate option, it must achieve greater reasonable progress than BART, a result that is not made clear through the modeling results or technical support data.

For the above reasons, we request that ADEQ withdraw its proposal to exempt Domtar from BART.

Sincerely,

Stephanie Kodish
Senior Director & Counsel, Clean Air Program
National Parks Conservation Association

Josh Smith
Senior Staff Attorney
Sierra Club

Charles McPhedran
Staff Attorney
Earthjustice

⁵ Note that § 51.303(d) states, "[t]he *existing stationary facility* must give prior written notice to all affected Federal Land Managers of any application for exemption under this § 51.303" (emphasis added).

⁶ Thus, the process would begin with Domtar submitting an application to EPA (§ 51.303(a)(1)). That application must include ADEQ's concurrence (§ 51.303(c)), Land Manager notice, and potentially comments (§ 51.303(d-e)). Following this, EPA would provide for notice and comment (§ 51.303(f)), followed by an ADEQ revised SIP submission containing the BART exemption. Finally, Federal Land Managers must submit written concurrence (§ 51.303(h)).