

## Droke, Erika

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**From:** Chivers, Stanley A <schiver@entergy.com>  
**Sent:** Friday, March 4, 2022 5:22 PM  
**To:** AirPlanComments  
**Subject:** RE: Draft Regional Haze SIP for Planning Period II; Entergy Arkansas, LLC - Independence Plant, Administrative Order  
**Attachments:** EAL Draft AO - with Entergy's suggested revisions 03.03.2022.docx

DEQ:

On behalf of Entergy Arkansas, LLC, we request specific revisions be made to the draft Administrative Order (AO) which begins on page 552 of Appendix F. The revisions we request are all administrative in nature. However, they are necessary to correctly identify the legal name of the entity which will be signing the AO and the units to which the order applies, and to clarify certain provisions within the AO. Please find attached a Word version of the draft AO with our proposed revisions incorporated using "Track Changes".

Sincerely,

Stan Chivers  
Sr. Environmental Analyst  
Air Lead, Arkansas Environmental Support  
Entergy Services, LLC  
8-750-4033 (internal) | (501) 377-4033 (office) | (501) 215-0024 (cell)



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ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION ENVIRONMENTAL QUALITY

In the Matter of:

LIS No. \_\_\_\_\_

Entergy Arkansas, ~~LLC Inc.~~ – Independence  
Plant  
555 Point Ferry Rd.  
Newark, AR 72203  
AFIN: 32-00042

**ADMINISTRATIVE ORDER**

This Administrative Order (AO) is issued pursuant to the authority delegated under the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and the federal regulations issued thereunder. In addition, this AO is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Act 472 of 1949, as amended, codified at Ark Code Ann. § 8-4-101 *et seq.*, including Ark. Code Ann. § 8-4-311.

The issues herein having been settled by agreement between Entergy Arkansas, ~~LLC Inc.~~ (Entergy) and the Division of Environmental Quality<sup>1</sup> (DEQ), it is hereby stipulated that the following STATEMENT OF BASIS and ORDER AND AGREEMENT be entered. DEQ and Entergy hereby agree to the entry of this AO in order to satisfy second planning period requirements associated with the Regional Haze Rule, 40 C.F.R. Part 51 Subpart P.

**STATEMENT OF BASIS**

1. Entergy is an ~~Arkansas Corporation~~ Texas limited liability company with its principal headquarters in Little Rock, Arkansas.
2. Entergy's Independence Plant (Independence) operates as a two-unit electric generating station in Independence County that generates electric energy for sale.
3. On July 1, 1999, the United States Environmental Protection Agency (EPA) published regulations to address visibility impairment in the nation's Class I areas. 64 Fed. Reg. 35714. These regulations were amended on July 6, 2005 (70 Fed. Reg. 39156), October 13, 2005 (71 Fed. Reg. 60631), June 7, 2012 (77 Fed. Reg. 33656), and January 10, 2017 (82 Fed. Reg. 3124). Collectively, these regulations are commonly known as the "Regional Haze Rule," codified at 40 C.F.R. §§ 51.300–51.309.

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<sup>1</sup> Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the Department of Energy and Environment.

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4. To meet the requirements of the Regional Haze Rule, each state must submit a state implementation plan (SIP) implementing the requirements of the Regional Haze Rule to the U.S. EPA for approval. Each state must submit revised a SIP in 2021 and every ten (10) years thereafter that includes a long-term strategy to “address regional haze visibility impairment for each mandatory Class I Federal area within the State and for each mandatory Class I Federal area located outside that State that may be affected by emissions from the State.” 40 C.F.R. §51.308(f)(2).
5. In developing the long-term strategy for each SIP revision, each state “must evaluate and determine the emission reduction measures that are necessary to make reasonable progress by considering the cost of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected anthropogenic source of visibility impairment,” collectively referred to as the “four-factors”. 40 C.F.R. §51.308(f)(2)(i).
6. DEQ identified the following emission units operated by Entergy as reasonably anticipated to contribute to visibility impairment at Class I Federal areas in Arkansas and Missouri:
  - a. Independence Unit 1 (SN-01); and
  - b. Independence Unit 2 (SN-02).
7. The Missouri Department of Natural Resources, the Oklahoma Department of Environmental Quality, and the Visibility Improvement State and Tribal Association of the Southeast identified Independence as a facility that may affect visibility impairment at Class I Federal areas located in Missouri, Oklahoma, and North Carolina.
8. On January 8, 2020, DEQ issued an information collection request (ICR) to Entergy soliciting information about potential control strategies for reducing emissions from Independence Unit 1 (SN-01) and Independence Unit 2 (SN-02).
9. On April 7, 2020, Entergy provided information to DEQ pursuant to the ICR. In the ICR response, Entergy indicated plans to cease coal-fired operations at Independence by no later than December 31, 2030. On March 11, 2021, (Case No. 4:18cv854), the United States District Court-Eastern District of Arkansas entered an order that required Entergy to cease coal-fired operations at Independence Unit 1 (SN-01) and Independence Unit 2 (SN-02) by no later than December 31, 2030.
10. Based on the information provided by Entergy, the court order requiring cessation of coal-fired operations, and consideration of the four factors, DEQ determined that no additional controls are reasonable ~~for that unit~~ to address Regional Haze Rule requirements for Independence Unit 1 (SN-01) and Independence Unit 2 (SN-02) for the second planning period (2021–2028).
11. Inclusion of the requirement to cease coal-fired operations by December 31, 2030, at Independence Unit 1 (SN-01) and Independence Unit 2 (SN-02) in this Order and Agreement constitutes an applicable requirement under Title V of the Clean Air Act. The

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addition of these applicable requirements necessitates the reopening of the permit, 0449-AOP-R17, for Independence. 40 C.F.R. § 70.7(f)(1)(i).

## **ORDER AND AGREEMENT**

**WHEREFORE**, DEQ and Entergy do hereby stipulate and agree as follows:

1. Entergy shall comply with all requirements set forth in this Order and Agreement.
2. No later than December 31, 2030, Entergy shall permanently cease the combustion of coal at Independence Unit 1 (SN-01) and Independence Unit 2 (SN-02).
3. DEQ has the authority to enforce this AO under Ark. Code Ann. § 8-4-103 and any violations ~~to~~of this AO will be subject to the penalties set forth in Ark. Code Ann § 8-4-103(c).
4. Entergy shall submit a permit modification application to DEQ for Independence to incorporate the applicable requirements of this AO no later than eighteen (18) months after the effective date of this AO.
5. Prior to the execution of any agreement for the transfer of ownership or operation of Independence, Entergy shall provide notice of and a copy of this AO to the proposed transferee. Transfer of ownership or operation of any portion of the Independence facility, including Independence Unit 1 (SN-01) and Independence Unit 2 (SN-02), shall not relieve Entergy of its obligation to ensure that the terms of the AO are implemented unless, at least 30 days prior to such transfer, Entergy provides written notice of the prospective transfer to EPA Region 6 and DEQ, and the prospective transferee executes an AO with DEQ prior to the effective date of the transfer providing for continued compliance with the terms set forth in the AO. The Notice of Transfer shall clearly identify the parties responsible for any existing violations of this AO. Any attempt to transfer ownership or operation of the Entergy-Independence facility without complying with this Paragraph constitutes a violation of this AO.
6. Nothing contained in this AO shall relieve Entergy of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this AO be deemed in any way to relieve Entergy of responsibilities contained in the permit.
7. If federal legislation or a federal court takes action on the Arkansas Regional Haze SIP revision or Regional Haze Rule resulting in a stay of compliance requirements of the AO including deadlines or the alteration of other federal regional haze requirements, in whole or in part, then the AO shall be enforceable only to the extent it is federally enforceable.
8. If any provision or requirement of this AO is disapproved by EPA, all provisions or requirements shall be severed and rendered inoperative.

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9. This AO is effective upon execution by the Director of DEQ.

10. By virtue of the signature appearing below, the individual represents that he or she is either an Officer or authorized representative of Entergy.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

\_\_\_\_\_  
Becky W. Keogh  
Cabinet Secretary  
Director, Division of Environmental Quality

APPROVED AS TO FORM AND CONTENT:

| Entergy Arkansas, ~~Incorporated~~ LLC

BY: \_\_\_\_\_ (Signature)

| Laura R. Landreaux \_\_\_\_\_ (Typed or printed name)

TITLE: President and Chief Executive Officer, Entergy Arkansas, LLC \_\_\_\_\_

DATE: \_\_\_\_\_