



The Arkansas Clean Power Plan Strategy

“Considerations for Next Steps”

Eddy Moore, Administrative Law Judge, APSC

• Stuart Spencer, Associate Director - Office of Air Quality, ADEQ. •

Initial Submittal/ Extension Request

- Under the EPA's Clean Power Plan (CPP), each state must submit a final implementation plan by **September 6, 2016**.
 - This timeframe allows states less than a year to develop complex plans
- However, the EPA can grant states a two-year extension of this deadline, making the final deadline **September 6, 2018**.

Initial Submittal/Extension Request (cont'd)

- To obtain an extension, a state must make an “initial submittal” to the EPA by September 6, 2016.
- If the EPA does not disapprove this submittal within 90 days, it is **automatically approved** and the state receives the two-year extension.
- To be approved by the EPA, the state’s initial submittal must provide certain information.

.Important to note that when state submits its initial submittal, it should be mindful that the language included does not communicate limitations on its options

-Reminder: **initial submittals are neither binding nor enforceable**

State's options: recap

- Primary consideration: **least cost option**
- Options include:
 1. Submitting a rate-based implementation plan
 2. Submitting a mass-based implementation plan
 3. Submitting a plan based on regional trading

Requirements for Extension: Overview

- To demonstrate the need for more time, the state must prepare and file with the EPA an initial submittal that:
 1. Explains the state's substantial efforts to evaluate the various approaches, including a demonstration of the impacts of these approaches;
 2. Demonstrates engagement with the public;
 3. Demonstrates that the state is able to undertake steps and processes necessary to submit a final plan by September 6, 2018

Requirements for Extension:

1. Identification of Approaches

- In the initial submittal, the state must submit an **“identification of final plan approach or approaches under consideration and description of progress made to date on the final plan components.”**
- Considerations:
 - Rate or mass?
 - Emissions standards with state measures?
 - Trading market trading platforms?
 - Intra-state
 - Inter-state (multi-state, regional)

Requirements for Extension:

1. Identification of Approaches (cont'd)

- “ ... progress made to date...”
 - Studies/analyses (see also Arkansas Act 382, intra)
 - Prepared by agencies/commissioned/stakeholder
 - Cost/ratepayer impact
 - Overall economic impact
 - Reliability
 - Infrastructure issues
 - Adequacy of current law/need for legislation

Requirements for Extension:

2. Explanation of need for additional time

- The agency must provide “an appropriate explanation of why the state requires additional time to submit a final plan by September 6, 2018.”

Considerations:

- Differences between the proposal and the final rule
 - Time to fully analyze and evaluate
- Time to evaluate finalized model rule(s) and federal plan (once issued)
- The EPA has not yet responded to the Petitions for Reconsideration
- Trading markets (see “identification of measures”)
- Legislative and regulatory process (see “identification of measures”)
 - Including public notice and opportunity to comment



Requirements for Extension:

3. Description of meaningful engagement with stakeholders

- Finally, the state must submit a “**demonstration or description of opportunity for public comment on the initial submittal, including vulnerable communities, during the time in preparation of the initial submittal and the plans for engagement during development of the final plan.**”
 - Continued stakeholder meetings
 - Frequency?
 - Location(s)?
 - Subgroups meetings
 - Task-oriented (don't meet just to meet)
 - Self-nominated?
 - Frequency?
 - Location of meetings?
 - Vulnerable community engagement
 - Public notice and comment opportunity on initial submittal

Arkansas Act 382 of 2015

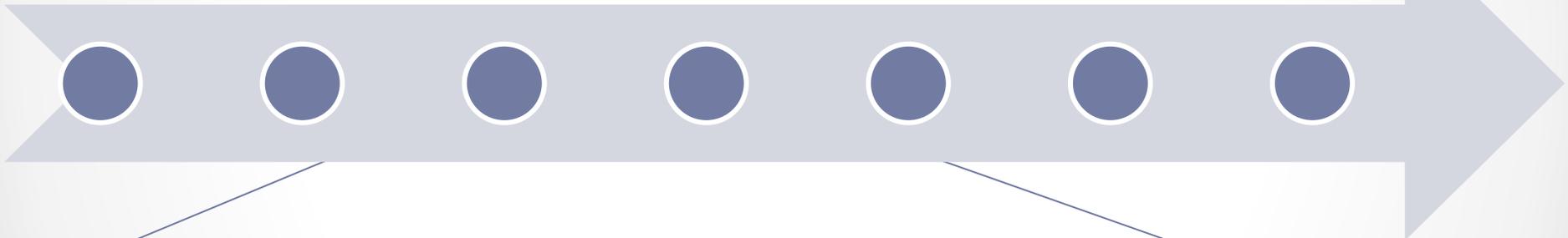
- Recap: passed by the Arkansas legislature in response to the proposed CPP
- Established a procedure for the development and approval of a state plan to comply with the CPP
- Does not require a state plan, but notes that a state plan is preferred to a federal plan

Arkansas Act 382 of 2015 (cont'd)

- The Arkansas plan must include the following:
 - Environmental (ADEQ), ratepayer (APSC), and economic (Arkansas Economic Development Commission) impacts studies
 - Must be performed before rulemaking is initiated
 - Majority approval by the Arkansas Legislative Council is required before submission of a state plan; however, the Governor may direct ADEQ to submit a state plan if the Arkansas Legislative Council does not act in a timely manner
- Note: Arkansas must revise its plan prior to submission if it results in a significant rate increase or an unreasonable reliability risk.

Timeline for Development of the Arkansas State Strategy

- June 2, 2014**
 - EPA proposes Clean Power Plan
- August 3, 2015**
 - Clean Power Plan Finalized
- September 6, 2016**
 - Final Plan or Initial Submittal with Extension Request Due
- September 6, 2017**
 - Progress Report Due for States with Extension
- September 6, 2018**
 - State Plan Due for States with Extension
- 2022 – 2029**
 - Interim Goal must be achieved, on average
- 2030**
 - Final Goal must be achieved



- October 2015**
 - ADEQ and APSC reconvene Stakeholder Meetings
- 2015 – 2016**
 - Policy Analysis and Act 382 studies
- 2016 – 2017**
 - Strategy Development
- 2017 – 2018**
 - Rulemaking
 - Approvals



Questions?



Eddy Moore
Administrative Law Judge
Arkansas Public Service Commission
EMoore@psc.state.ar.us

Stuart Spencer
Associate Director, Office of Air Quality
Arkansas Department of Environmental Quality
spencer@adeq.state.ar.us