

February 17, 2015

Ryan Benefield
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118

Via electronic delivery

**Re: Comments Concerning the “State Implementation Plan Review
for the Five-Year Regional Haze Progress Report”**

Dear Director Benefield:

The Energy and Environmental Alliance of Arkansas (“EEAA”) and its individual members¹ are pleased to submit these comments responding to the *State Implementation Plan Review for the Five-Year Regional Haze Progress Report* (“Progress Report”), as publicly noticed by the Arkansas Department of Environmental Quality (“ADEQ” or “Department”) on January 2, 2015.

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.

Introduction and Background

Regulations implementing the regional haze visibility program of the federal Clean Air Act (“CAA”) require each state to submit reports every five years describing the progress toward the regional progress goals for each mandatory Class I federal area located in the state or outside the state if

¹ The members of EEAA are: AEP/Southwestern Electric Power Company, Arkansas Electric Cooperative Corporation, Arkansas Municipal Power Association, Conway Corporation, Empire District Electric Company, Entergy Arkansas, Inc., Jonesboro City Water & Light, North Little Rock Electric, Oklahoma Gas & Electric Company, Plum Point Services Company, LLC, and West Memphis Utility Commission.

affected by emissions from within the state.² These reports must be in the form of and satisfy the requirements for state implementation plan revisions. In addition, the regulations require that each report contain specific information, including: (i) the status of all measures included in the implementation plan for achieving reasonable progress goals; (ii) a summary of the emissions reductions achieved throughout the state; (iii) current visibility conditions and changes in visibility impairment; (iv) analysis tracking the five-year change in emissions of pollutants contributing to visibility impairment; (v) significant changes in anthropogenic sources; (vi) analysis of whether current implementation plan elements and strategies are sufficient to enable the state to meet reasonable progress goals; and (vii) a review of the state's visibility monitoring strategy.³ Finally, the report must conclude with a determination of adequacy regarding the existing regional haze implementation plan.⁴

On January 2nd, 2015, ADEQ publicly noticed the availability of the proposed Progress Report containing the information responsive to applicable regulatory requirements. The Progress Report concludes with ADEQ's proposed "negative declaration," which specifies "no additional controls are necessary during this first five-year progress report period."⁵

General Comments

I. The Progress Report and Negative Declaration Are Consistent with Federal Regulation and Guidance

Although federal regulations require that each state's five-year progress report contain specific elements, the individual states are left with the primary authority to assess and determine the "adequacy of [the] existing implementation plan."⁶ The EPA intends for the five-year progress report to "involve significantly less effort than a comprehensive SIP revision."⁷

ADEQ's Progress Report contains the elements and considerations required under federal regulation⁸, and more fully described in EPA's *General Principles for the 5-Year Regional Haze Progress Reports for the Initial Regional Haze State Implementation Plans* (Apr. 2013) ("Guidance"). The Department's

² 40 C.F.R. § 51.308(g).

³ *Id.* § 51.308(g)(1)-(7).

⁴ *Id.* § 51.308(h).

⁵ Progress Report at 64.

⁶ 40 C.F.R. § 51.308(g) and (h).

⁷ 64 *Fed. Reg.* 35714, 35747 (July 1, 1999).

⁸ 40 C.F.R. § 51.308(g)(1)-(7)

draft enumerates each element in sequential chapters, and includes the data and analysis necessary to inform the public and EPA that Arkansas' Class I federal areas remain ahead of Uniform Rate of Progress necessary to attain the national goal of natural visibility conditions by the year 2064.⁹ For these reasons, the Progress Report is consistent with EPA's intent, as spelled out in regulation and guidance.

II. Visibility Improvement at Arkansas' Class I Federal Areas Remains Ahead of the Federally Approved Glide Path

The overarching goal of the visibility program is to restore natural visibility conditions at each Class I federal area, therefore each state's regional haze state implementation plan required an assessment of "the rate of progress needed to attain natural visibility by the year 2064" (the "Uniform Rate of Progress" or "Glide Path").¹⁰ Accordingly, Arkansas' state implementation plan provided a Uniform Rate of Progress equivalent to: (i) a 0.246 deciview (dv) per year (14.78 dv total) improvement for Caney Creek and (ii) 0.245 dv per year (14.70 dv total) improvement for Upper Buffalo.¹¹ The Uniform Rate of Progress for both areas was reviewed and approved by EPA.¹²

In order to track each state's progress toward natural visibility conditions, the regulations require that each state's five-year progress report must include an assessment of visibility conditions for the most and least impaired days, with the same expressed in terms of 5-year averages of the annual values. Specifically, the five-year progress report must provide:

- (i) current visibility conditions for the most and least impaired days;
- (ii) the difference between current visibility conditions for the most and least impaired days and the baseline visibility conditions; and
- (iii) the change in visibility impairment for the most and least impaired days from the past five years.¹³

In order to comply with these requirements, ADEQ's assessment properly utilizes the data and algorithms from the Interagency Monitoring of Protected Visual Improvements ("IMPROVE") program to chart the rate of visibility

⁹ See Progress Report at 56–57.

¹⁰ 40 C.F.R. § 51.308(d)(1)(i)(B)

¹¹ See 76 Fed. Reg. 64186, 64194 (Oct. 17, 2011)

¹² See 77 Fed. Reg. 14604, 14607 (Mar. 12, 2012).

¹³ 40 C.F.R. § 51.308(g)(3).

improvement.¹⁴ The data clearly demonstrates that visibility impairment is decreasing more rapidly than the federally approved Uniform Rate of Progress for each of Arkansas' Class I federal area. The continuing improvement is reflected in both the 20% worst days and 20% best days.¹⁵ The documented rate of progress supports ADEQ's negative declaration.

III. The Progress Report Documents that Arkansas' Existing Emissions Controls and Strategy are Sufficient to Make Continued, Reasonable Progress Toward Natural Visibility Conditions

Though Arkansas' reasonable progress goals, as set forth in the 2008 Arkansas Regional Haze State Implementation Plan, are not approved and final, the Department relied on the goals to conduct the analysis and assessments necessary to complete the five-year progress report. The lack of finality concerning the reasonable progress goals does nothing to impugn the validity and authority of the monitoring data and assessments articulated in the Progress Report, which clearly demonstrate that the state's existing emission controls and strategy are moving the state's Class I federal areas toward the federal goal of natural visibility conditions.

The visibility impairment at Arkansas' Class I federal areas is decreasing *more rapidly* than the federally approved Uniform Rate of Progress.¹⁶ The improvement in visibility is due in significant part to reductions in visibility related pollutants resulting from federal and state programs and increased control efficiencies from EGU sources.¹⁷ Notably, the documented improvement in visibility at Arkansas' Class I federal areas is occurring *without the implementation of best available control technology ("BART") at the state's subject-to-BART sources and without additional controls on additional sources.*¹⁸

Accordingly, the Progress Report validates the state's original determination that existing federal and state programs are adequate to make reasonable progress toward natural visibility. The full implementation of BART controls should only expedite the rapid rate of progress toward 2018 and, ultimately, 2064. In sum, the existing plan and strategy are working and

¹⁴ See Progress Report at 39–41; see also Guidance at 8–9.

¹⁵ See Progress Report at 41–43 and 56–57; Tables 4.1 and 4.2.

¹⁶ See Progress Report at 56–57.

¹⁷ See Progress Report at 35–37.

¹⁸ See Progress Report at 35 and 55.

support ADEQ's proposed negative declaration that "no additional controls are necessary during this first five-year progress period."¹⁹

Specific Comments

- Page(s) 6 and 24: The proposed Progress Report contains statements referencing the D.C. Circuit Court of Appeals grant of EPA's request to lift the stay on CSAPR and indicating that ADEQ is awaiting guidance from the agency for implementation of CSAPR. On December 3, 2014, EPA published a ministerial rule amending the dates to correctly reflect the compliance deadlines for CSAPR.²⁰ Accordingly, ADEQ should revise the applicable sections to note that CSAPR will be implemented in Arkansas beginning with the 2015 ozone season.
- Page 21: The proposed Progress Report should be revised to note that Units 1 and 2 (SN-01) and Unit 3 (SN-02) at Lake Catherine (AFIN 30-00011) were permanently retired and removed from the facility's Title V permit, issued September 26, 2014 (Permit 1717-AOP-R6).
- Page 21: The Progress Report should be updated to note that Unit 4 (SN-03) is no longer permitted to burn fuel oil, with the permitted allowance for fuel oil removed with the issuance of Permit 1717-AOP-R6 on September 26, 2014. The removal of the permitted allowance for fuel oil at Unit 4 (SN-03) eliminates any need to review and consider BART controls for the fuel oil-firing scenario, and ADEQ should highlight the significant decrease in permitted SO₂ emissions from Unit 4.
- Page(s) 30–31: Table 2-6 should be updated to include the retirement of Units 1 and 2 (SN-01) and Unit 3 (SN-02) at the Entergy - Lake Catherine facility.
- Page 37: The Progress Report states that annual SO₂ emissions are projected to increase by an additional 125 tpy in 2018 from 2011 observed emissions. This conclusory statement conflicts with language in the very next paragraph that documents an 87.5% reduction in SO₂ emissions at the SWEPCO Flint Creek Power Plant because of the operation of new control equipment. The statement also contradicts the 2018 emission projections detailed in Chapter 5, which project

¹⁹ See Progress Report at 64.

²⁰ See 79 Fed. Reg. 71663 (Dec. 3, 2014).

significant decreases in SO₂ from EGU sources. The Progress Report should be revised and/or clarified to reconcile the statement on page 37 with the projected data provided in Chapter 5.

Conclusion

ADEQ's proposed Progress Report is consistent with existing regulatory requirements and conforms to agency Guidance. The data, analysis and assessments provide ample support for the Department's "negative declaration." Perhaps most important, the Progress Report validates ADEQ's determination that current and existing emission controls are more than adequate to make reasonable progress toward the federal goal of natural visibility conditions in the year 2064.

EEAA and its members sincerely appreciate the opportunity to provide comments in support of the proposed Progress Report, and the organization remains available to provide any additional information.

DATED: February 17, 2015

Respectfully Submitted,

Energy and Environmental Alliance of Arkansas



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February 17, 2015

VIA HAND DELIVERY

Mr. Ryan Benefield
Interim Director
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118

Re: Comments of Nucor Steel Arkansas and of Nucor-Yamato Steel Company on
ADEQ's Five-Year Regional Haze Progress Report

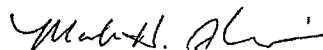
Dear Mr. Benefield:

This firm represents Nucor Steel Arkansas, a division of Nucor Corporation (NSA), and Nucor Yamato Steel Company (NYS). Enclosed are NSA and NYS's comments on ADEQ's proposed Five Year Regional Haze Progress Report. Pursuant to ADEQ's public notice these comments are being submitted prior to the comment deadline at 4:30 p.m., Central Time, February 17, 2015.

Please let me know if you have any questions.

Sincerely,

DOVER DIXON HORNE



Mark H. Allison

Enclosure

cc: Tammera Haralson, Interim Deputy Director
Air Division Chief, ADEQ
Wayne Turney, Nucor Steel Company
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