

## Regional Haze/Arkansas: U.S. Environmental Protection Agency Announces Approval of Five-Year Progress Report



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The United States Environmental Protection Agency (“EPA”) published a final rule in the October 1st Federal Register approving the State of Arkansas’s Regional Haze Five-Year Progress Report. See 84 Fed. Reg. 51986.

EPA had previously approved an Arkansas State Implementation Plan (“SIP”) addressing regional haze.

The federal regional haze program is driven by 169A of the Clean Air Act. Congress sought to address visibility in Mandatory Class I federal areas in which an impairment results from manmade air pollution.

Section 169A requires that certain sources contributing to visibility impairment install Best Available Retrofit Technology (“BART”). The states are responsible for determining the appropriate BART controls for certain stationary sources. EPA reviews the states’ State Implementation Plan (“SIP”) submissions for consistency with the relevant regulations.

In the event EPA determines that an SIP does not meet the Clean Air Act’s requirements, the federal agency may itself make certain choices and impose a Federal Implementation Plan (“FIP”). Section 169A gives states substantial responsibility to determine appropriate BART controls and EPA may not disapprove reasonable state determinations that comply with the relevant statutory and regulatory requirements.

40 C.F.R. 51.308(g) requires each state to submit a progress report that evaluates visibility progress toward the reasonable progress goals for each Class 1 area within the state. It must also address each Class 1 area outside the state which may be affected by emissions from within the state. This regulation also requires the states to concurrently submit a determination of the adequacy of the existing Regional Haze SIP. This progress report is due five years after submittal of the initial Regional Haze SIP. It is submitted in terms of a revision to the SIP.

The October 1st Federal Register Notice approves Arkansas’s Regional Haze Process Report SIP Revision. The federal agency states that it meets the applicable regional haze requirements set forth in 40 C.F.R. 51.308(g) and the determination of adequacy provision under 40 C.F. R. 51.308(f).

EPA states it received two comments on the prior proposed rule addressing this issue. An anonymous comment is stated to have addressed the Mercury and Air Toxics Standards. This comment was deemed outside the scope of the proposal.

A comment was also stated to have been received from the Arkansas Affordable Energy Coalition. This organization expressed general support for the proposed approval. However, it also submitted a copy of the comments it previously provided on December 31, 2018, on the proposed approval action on the August 8, 2018, Arkansas Regional Haze SO2 and PM SIP revision.

A copy of the Federal Register can be downloaded [here](#).