

Interstate Transport/Ozone: Arkansas Environmental Federation Comments on U.S. Environmental Protection Agency Arkansas State Implementation Plan Disapproval



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The Arkansas Environmental Federation (“AEF”) submitted comments on April 25th to the United States Environmental Protection Agency (“EPA”) on a proposed rule disapproving an Arkansas state implementation plan (“SIP”).

See Docket No. EPA-R06-OAR-2021-0801.

As noted in a [post yesterday](#) EPA disapproved on February 22nd Arkansas’s SIP addressing interstate transport for the 2015 8-Hour Ozone National Ambient Air Quality Standards (“NAAQS”). See 87 Fed. Reg. 9798.

A description of the interstate ozone/good neighbor issue can be found in yesterday’s post.

The AEF describes itself as a non-profit association with over 200 members, primarily Arkansas businesses and industries that manufacture products, provide services, and employ skilled workers in Arkansas while also ensuring that their operations comply with federal and state environmental, safety, and health regulations.

The AEF comments were submitted under the signature of Ava F. Roberts who serves as the organization’s Executive Director.

By way of introduction, AEF’s comments reference its work with the Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) to develop the State of Arkansas’s interstate transport SIP for the 2015 ozone NAAQS.

The AEF also initially argues:

- DEQ is best situated to understand the impacts of NAAQS on Arkansas businesses/industries and the SIP was developed taking into account those impacts
- Consideration of compliance with the NAAQS requirements was an objective
- DEQ developed an appropriate and approvable SIP
- EPA should reevaluate the Arkansas SIP based on previously submitted information/DEQ comments
- The Arkansas SIP should be approved

Key points in the AEF comments include:

- EPA has a narrow role in the SIP process (arguing EPA overstepped its Clean Air Act authority/DEQ should be permitted to analyze, address and/or correct any deficiencies)
- EPA's proposed SIP disapproval and federal implementation plan proposal ("FIP") is out of sequence (EPA simultaneously promulgating a FIP instead of allowing DEQ to submit revisions impairs its ability to make a state-specific-over-control analysis)
- The appropriate venue for hearing challenges to the proposed disapproval of Arkansas's SIP is the Eighth Circuit

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