

March 18, 2024

Ohio EPA  
Director Vogel  
50 W. Town St., Suite 700  
Columbus, OH 43215

[DAPC-comments@epa.ohio.gov](mailto:DAPC-comments@epa.ohio.gov)

Re: Comments on Supplement to the Regional Haze SIP for the Second  
Implementation Period

Dear Director Vogel,

On January 16, 2024, Ohio EPA proposed to Supplement Ohio's Regional Haze SIP for the Second Planning Period, originally submitted on July 21, 2021. This is Buckeye Power and OVEC's comment on the supplement to Ohio's pending Regional Haze SIP.

Both Buckeye and OVEC operate electric generating stations in Ohio (Buckeye operates the Cardinal Station and OVEC operates the Kyger Creek Station). Ohio's SIP will impact both plants.

In previous comments and correspondence with Ohio EPA, Buckeye and OVEC documented that Ohio's pending 2021 SIP submission determined both facilities meet the definition of "effectively controlled." Although there is no set definition of an "effectively controlled" source, US EPA clarified that states have the flexibility to avoid performing a four-factor analysis for a source that would make the analysis "futile" because it would not result in new controls.<sup>1</sup> In other words, by identifying Buckeye and OVEC as effectively controlled sources, Ohio EPA concluded that Buckeye and OVEC's emissions "are already well controlled" and "it is unlikely that further cost-effective reductions are available."<sup>2</sup> This is documented in the supporting materials for the current SIP submission.

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<sup>1</sup> US EPA, Memorandum re: Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period at Section 2.3 (June 8, 2021); USEPA, Guidance on Regional Haze State Implementation Plans for the Second Implementation Period at Section 2.1.3.3 (Aug. 20, 2019).

<sup>2</sup> US EPA Memo at Section 2.3.

Since both plants are effectively controlled, no other analysis is necessary. However, Buckeye and OVEC recognize that Ohio EPA determined an enforceable emission limit may be necessary to guarantee both plants continue to operate at the current, effectively controlled, rate. Consequently, Ohio EPA proposed limits on the future operation of both plants to enforce these emission rules.

For Cardinal, Ohio EPA proposed to rely on the existing SO<sub>2</sub> limit from the plant's Title V permit. The limit was developed in 2019 as a part of the area's SO<sub>2</sub> NAAQS SIP with the active participation of Ohio EPA, West Virginia, and US EPA.

The proposed limit for the Kyger Creek Station was developed by analyzing the plant's NO<sub>x</sub> emissions over the last six to seven years. The proposed limit ensures that the plant's improved overall annual NO<sub>x</sub> emissions performance, that began with system improvements implemented in 2020, are maintained going forward. The limit will ensure the plant continues to maintain the reasonable progress required by the rules and guidance.

Both limits represent a significant reduction in the enforceable limits from the last approved Regional Haze SIP a decade ago and both plants have reduced their emissions since the original Regional Haze SIP in 2011.

With the implementation of these limits, Ohio's supplemented SIP meets or exceeds the applicable rules and guidance.

While not required, we would like to discuss the comments submitted by the National Park Service ("NPS") and the USDA Forest Service. First, both comments indicate there was no Federal Land Manager ("FLM") review of Ohio's supplemental SIP. Both commenters assert this review is necessary to meet the FLM requirement under the Regional Haze Rule. However, this grievance is unfounded.

Under 40 CFR 51.308(i)(2), the state must consult with FLM before public comment and "early enough" in the state's policy analysis so FLM can "meaningfully inform" the state on its long-term strategy. Ohio consulted with FLM before submitting its original SIP. In a letter dated February 10, 2021, the U.S. Department of Agriculture, U.S. Forest Service, confirmed Ohio satisfied its requirements under 40 CFR 51.308(i)(2). The current public comment period is for a supplement to Ohio's original SIP for the second implementation period that was submitted to US EPA in 2021. There is no requirement for a state to consult with FLM prior to a public comment period for a SIP supplement.

Second, the legal requirements for a SIP under the Regional Haze Rule is not "do more to reduce emissions," but "reasonable progress." The program is not driven by technology. Reasonable progress goals are those that provide, over the same period, an "improvement in visibility for the most impaired days" and "ensure no degradation in visibility for the least impaired days." 40 CFR 51.308(d)(1).

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Third, from a holistic view, Ohio's SIP is more than adequate. Visibility conditions are below the URP glidepath and the forecasted visibility conditions in 2028 are expected to be below the URP glidepath. Ohio's proposed SIP supplement establishes enforceable emissions limits that will undoubtedly ensure Ohio continues to fulfill its obligations under the Regional Haze Rule.

Any suggestion that additional reductions from the Cardinal or Kyger Creek Station are necessary ignores that the rules and regulations do not demand any potential reduction, particularly when a state determines a source is effectively controlled. Ohio's SIP meets the legal requirements and is approvable. Nothing else is applicable.

Very truly yours,



Michael E. Born

MEB/nmr