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# Regional Haze – Texas /Oklahoma Federal Implementation Plan: U.S. Environmental Protection Agency Voluntary Remand

## Arkansas Environmental, Energy, and Water Law Blog

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Regional Haze – Texas /Oklahoma Federal Implementation Plan: U.S. Environmental Protection Agency Voluntary Remand

Mr. Seth Jaffe in a November 29th post in the blog Law and Environment discusses the United States Environmental Protection Agency's ("EPA") recent filing in which it seeks a voluntary remand of the Texas/Oklahoma Regional Haze Federal Implementation Plan rule that the State of Texas and others (Collectively "Texas") challenged in the United States Court of Appeals for the Fifth Circuit.

Texas had sought review of an EPA final rule titled:

Approval and Promulgation of Implementation Plans; Texas and Oklahoma; Regional Haze State Implementation Plans; Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze; Federal Implementation Plan for Regional Haze. See 81 Fed. Reg. 296(Jan. 5, 2016)

A brief overview of the Clean Air Act's provisions regarding State Implementation Plans/Federal Implementation Plans/Regional Haze can be found in a post describing these issues in the Arkansas context in a post from last week. [See previous blog post here.](#)

Mr. Jaffe's post titled "EPA Surrenders in the Regional Haze Dispute With Texas" states that:

...when the 5th circuit Court of Appeals stayed EPA's disapproval ...of Texas's regional haze plan, EPA had pretty much no chance of winning. Although the parties then stayed the litigation to talk settlement, EPA announced that it was seeking a voluntary remand of the final rule.

The blog post opines that EPA's voluntary remand was driven by:

- The Fifth Circuit's staying of the rule
- EPA determined it was going to lose on the merits
- The change of administrations meant Texas had no incentive to compromise or settle

Mr. Jaffe concludes:

It looks as though we may have seen the first concrete implications of the election on environmental policy.

[A link to Mr. Jaffe's blog post can be found here.](#)

[A copy of EPA's Status Report in the Fifth Circuit Court of Appeals can be found here.](#)