



File Code: 2580

Date: May 22, 2009

Mr. David Shaw
New York State Dept. of Environmental Conservation
625 Broadway
Albany, NY 12233-3251

Dear Mr. Shaw:

This letter is in response to the New York Draft Regional Haze State Implementation Plan (SIP) dated April 2009, which was submitted to the Federal Land Managers for review. Since you represent the responsible Agency, we are providing our technical review comments (Enclosure 1) to you which focus on the eight content areas outlined in our October 13, 2006, letter (Enclosure 2).

The Eastern Region of the Forest Service has a new Air Resource Management Team available to work with you and your staff on all air resource issues. Please add the Air Resources Specialist for New York, Ralph Perron, to your Federal Land Managers list. As required in the Code of Federal Regulations (CFR), consultation and collaboration with our Agency can be maintained through Mr. Perron.

We look forward to working with you to improve air quality values, including progress towards the visibility goal set by Congress for our Class I areas. In spite of our legal involvement in this process, please realize that only the United States Environmental Protection Agency can make a determination about the document's completeness and provide final approval.

We would appreciate a response regarding our comments per Section 51.308(i)(3) of the CFR. If you have technical questions about the substance of our comments, please contact Mr. Perron at (802) 222-1444 or rperron@fs.fed.us.

Sincerely,

/s/ Donna L. Hepp (for)
KENT P. CONNAUGHTON
Regional Forester

Enclosures (3)

cc: Meg Mitchell, Tom Wagner, Paul Stockinger, Ann Acheson, Charles E Sams, Ralph Perron, Richard Gillam



Enclosure 1

USDA Forest Service Comments Regarding New York Draft Regional Haze Rule State Implementation Plan (SIP)

The air program staff of the U.S. Forest Service has reviewed the New York Draft Regional Haze State Implementation Plan (SIP) dated April, 2009, and has developed the comments listed below. We look forward to the New York Department of Environmental Conservation (NY DEC) response to these comments, as required in the Code of Federal Regulations (CFR) per section 40 CFR 51.308(i)(3). For further information regarding these comments, please contact Ralph Perron at (802) 222-1444 (rperron@fs.fed.us) or Rick Gillam at (404) 347-5058 (rgillam@fs.fed.us). The comments below are categorized by the emphasis areas outlined in our letter to Mr. David Shaw dated October, 13, 2006, included as Enclosure 2. That letter discussed our perspectives relevant to Regional Haze SIP preparation.

Overall Comments:

We are interested in the New York Regional Haze SIP because analyses conducted by MANE-VU have shown that air emissions sources located in New York affect visibility in Forest Service Class I areas in the states of Vermont and New Hampshire (see Section 1.4 of Draft SIP and Attachment B – MANE-VU Contribution Assessment). Overall, New York has done a commendable job compiling the Regional Haze SIP and addressing the requirements of the Regional Haze Rule. The following sections provide our comments related to specific sections of the Draft SIP.

Specific Comments:

Natural Condition and Uniform Rate (Sections 5, 9 and 10 of Draft NY RH SIP)

- No comments.

Emission Inventories (Section 7 of Draft NY RH SIP)

- No comments

Area of Influence (Section 1 of Draft NY RH SIP)

- No comments

Reasonable Progress Goals and Long Term Strategy (Sections 9 and 10 of Draft NY RH SIP)

- No comments

Wildland Fire (Section 10.5.2 of Draft NY RH SIP)

On May 6, 2009, we participated in a conference call with representatives from NY DEC to discuss questions related to the Draft Regional Haze SIP. Considering the information that was provided and discussions that occurred during the call, we request that the following changes be made in Section 10.5.2.

- p. 10-55, 6 lines from bottom, please consider removing the phrase “Steps are taken to ensure that burning will not result in an increase in air pollution...” and replace with “Steps are taken to ensure that air quality impacts are minimized during burning...”
- p. 10-55, 13 lines from top, “Prescribed burns are those that are less than 10 acres in size.” Perhaps the state statute should be listed here, as prescribed burns may be larger than 10 acres in size.
- P. 10-55, 4 lines from bottom, “...the prescribed burn plans for an area 10 acres or more must go through a State Environmental Review and Department review process.” Please consider adding a phrase that USDA Forest Service lands and Department of Defense lands are exempt from the review process for all prescribed burns. The Forest Service has processes in place to protect air quality and inform the public and communities prior to the initiation of prescribed burning activities on Forest Service lands and Ft. Drum. We will also continue to notify and keep the State of New York informed of our prescribed fire activities.

Regional Consistency (Section 3 of Draft NY RH SIP)

- No comments.

Verification and Contingencies

- No comments.

Coordination and Consultation (Section 3, 4 and 9.1, and 10.9 of Draft NY RH SIP)

- No comments.

Best Available Retrofit Technology (BART) (Section 8 of Draft NY RH SIP)

- The Draft SIP does not contain emissions limitations representing Best Available Retrofit Technology (BART) for sources that have been determined to be BART-eligible. Section 8.0 of the draft SIP indicates that New York “has developed a strategy to implement BART that includes the adoption of a state rule that will contain the requirements for BART controls.” Based on the discussion in Section 8.4 of the draft SIP, it appears that New York’s BART Rule (if unchanged from that described) will address the requirements of the federal BART rule and will require controls to be in place by January 2013. We support New York’s commitment to have the BART determinations completed and to have any necessary emissions controls in place by January 2013. We recognize that this date follows the 5-year timeframe outlined in the Federal BART Rule (based on the regulatory due date for the Regional Haze SIP of December 2007). However, we are concerned that since the process of conducting the BART determinations has not yet begun, and that New York’s BART rule has not yet been finalized, it will be difficult for New York and the affected BART facilities to complete the process by the January 2013 deadline. We encourage New York to move forward with the BART process as expeditiously as possible.
- In our preliminary comments on the Draft SIP submitted for FLM review in February 2009, we requested that the Forest Service be provided a 60-day review period on BART

determinations. NY DEC responded by stating “New York understands the U.S. Forest Service’s need to review the BART determinations and commits to working with the Federal Land Managers (FLMs) and their other federal partners in implementing the BART program.” We appreciate that New York recognizes the important role of the FLMs in the BART determination process. Section 8.4 of the Draft SIP provides a schedule for the NY BART rulemaking and describes the actions that will be taken to implement the rule. We request that a statement be added to Section 8.4 indicating that the FLMs will be provided a 60-day review period for the BART determinations, including any BART exemption modeling demonstrations.

Additional Suggestions:

- Page 10-41, 11 lines down from top, “Quebec’s five-year report on their reduction efforts to date discussed the measures taken from 2001 to 20054.” Should 20054 be corrected to 2005?



File Code: 2580-2

Date: October 13, 2006

Mr. David Shaw
Director, Division of Air Resources
New York State Department of Environmental
Conservation
625 Broadway
Albany, NY 12233-3251

Dear Mr. Shaw:

Over the past several years, members of both our staff and yours have participated with neighboring states and tribes in the Central States Regional Air Partnership to develop best approaches and tools for preparing plans that will reduce haze in Class I areas. With preparation of your Regional Haze State Implementation Plan (SIP) at hand, we want to focus on collaboration with you and your staff to ensure success. As you know, consultation with you is required in the Regional Haze Rule (RHR). This is a priority for our air program.

Our focus will be on Class I wildernesses, which the United States Department of Agriculture (USDA) Forest Service (FS) is responsible for. We are coordinating with the other Class I area managers, the National Park Service, and the US Fish and Wildlife Service to facilitate a common message from all federal land managers (FLM). We anticipate leveraging strengths of each FLM to our joint advantage. Since the FLM will be seeking a close working relationship with every state in this SIP writing process, the expectation is to share ideas from across the nation. The objective of every SIP is to play a critical role in a national emissions reduction plan.

Enclosed are detailed perspectives pertinent to the SIP preparation. Any comments or questions should be directed to Ann Acheson, the principal FS point of contact, at (740) 373-9055 ext. 23 or aacheson@fs.fed.us. She will consult on your SIP throughout the required 60-day comment period, sharing our best insights and recommendations. Ann will also work with others on our staff, especially our National Haze Coordinator, Ann Mebane and the Department of Interior. Ann Mebane can be contacted at (307) 587-4597 or amebane@fs.fed.us.

As required in the RHR, please identify, at your earliest convenience, your key point(s) of contact. Send all correspondence electronically to both Ann Acheson and Ann Mebane to ensure a successful consultation and SIP.

Sincerely,

/s/ Forrest L. Starkey (for)
RANDY MOORE
Regional Forester

Enclosure



(Enclosure 1 to October 13, 2006 letter)

Subject: New York and Regional Haze Rule Consultation with the United States
Department of Agriculture (USDA) Forest Service (FS)
September 2006

The following perspectives are merely suggestions or recommendations not direction or requirements. They are deliberately very similar to those prepared by the Department of Interior to contribute to a common sense of purpose for improving haze in all Class I areas. We are sending these perspectives to each state. In so doing, we hope to facilitate inter-state coordination. At the same time, we fully acknowledge the discretion afforded in the Regional Haze Rule (RHR) for unique and creative solutions by individual states in writing plans that reduce haze.

Natural Condition and Uniform Rate

These factors apply mainly to states that have Class I areas. Other states that contribute to visibility impairment in Class I areas located in a different state might consider including discussion and conclusions on these factors in their individual plans.

The basic calculation of baseline, natural condition, and uniform rate builds the foundation for the entire RHR State Implementation Plan (SIP) process. Considerable discussion and debate at the science and policy level has occurred regarding appropriate methods to be used. As a consequence, several equations that include varying parameters or multipliers are available. Because these calculations can have a significant effect on the resulting progress goal, it is important to provide a detailed description of the methods used in the SIP. Calculations that include only portions of established methods or utilize unique approaches will be better understood if the rationale for these differences is fully explained in the SIP or its supporting documentation. We encourage states to use calculations that are based on equations recommended by the Interagency Monitoring of Protected Visual Environments (IMPROVE) steering committee and that are consistent with recommended approaches from the pertinent Regional Planning Organization (RPO) and the Environmental Protection Agency (EPA) region.

Emission Inventories

Given the complexities associated with modern comprehensive emission inventories, spending some considerable effort in describing how these inventories were developed and used will be important. Emission descriptions will be most informative if they include an evolutionary discussion that includes an actual, base-year inventory used to evaluate model performance; a typical base-year inventory that represents the five year, average state which establishes modeled visibility impacts; and various future year, controlled inventories that demonstrate future visibility conditions. Consider adding future year inventories that are clearly partitioned to delineate source types (by text, charts, or graphics) that are included in each model simulation. Benefits to future visibility conditions suggested in the SIP that are not also clearly linked to a future inventory or are not clearly included in future model analysis, will warrant additional discussion.

One part of your emission inventory includes the implementation of “Best Available Retrofit Technology” (BART) on a subset of pre-Prevention of Significant Deterioration sources. The BART source identification, elimination, and level determination will be of particular interest for review. We would prefer to see a clear progression through the three basic BART phases and a thorough description of the RHR prescribed factor analysis (if applicable). Consider discussing whether BART levels apply to individual or grouped source categories.

Area of Influence

The area of influence of significant visibility-impairing sources is an important SIP element. We suggest that each state clearly identify and apportion by state, or other geographic means, the significant levels of pollutants contributed to each Class I area by source. Developing this information together with neighboring States and Tribes will facilitate consistency. Discussions of changing source area contributions at both the base- and future-year levels will help demonstrate SIP progress. Consider the benefits of presenting this information in the form of transported mass by pollutant or through individually calculated visibility impairment measures. Using a percentage or “Top 10” ranking for current contributions by geographic area may or may not clearly describe progress over time.

Reasonable Progress Goals and Long Term Strategy

Establishing reasonable progress goals for Class I areas in your state and/or acknowledging reasonable progress goals for Class I areas in other states that are affected by emissions from your state, as well as defining associated emissions strategies to meet these goals, form the basis of the SIP process under the RHR.

In developing the statute’s required Long Term Strategy (LTS), your state is offered broad flexibility when determining reasonable progress goals and associated emissions. As noted earlier, the RHR includes a requirement for states to assess a uniform rate of progress and compare that rate to the reasonable progress goals set by those states with Class I areas. We feel that this uniform rate of progress assessment is useful in determining the geographic and economic extent a state can consider when developing the LTS associated with the reasonable progress goals.

In general, we will be looking at the degree to which the LTS is supported by RPO technical work and at the level of consistency among the contributing states. For Class I areas where your state is setting a year 2018 reasonable progress goal of equal or less impairment compared to the uniform rate of progress, our review will focus holistically on (1) whether strategies are applied equitably across source types; (2) if both local and regional emission strategies have been fully examined; and (3) how consistent assessments and strategies are applied regionally.

For Class I areas where the reasonable progress goal is more impaired than the uniform rate of progress, consider presenting information on a component basis. Components could consist of emission source category as before, but also include contributions from individual pollutants or by geographic source area. Our intent is to better understand where and why a strategy falls short of the uniform progress rate goal.

Because each region has focused their emission control strategy on different conditions, presenting results in a component format may assist in showing what level of progress was made in the focus area, versus other less controllable factors.

Wildland Fire

Your state has considerable flexibility as it addresses all anthropogenic sources of visibility impairment, including fire. The RHR requires consideration of smoke management techniques for agricultural and forestry management practices in the development of the LTS part of the SIP. On a short-term basis, fire has the potential to cause significant visibility reduction in Class I areas. If fire contributes to the index used to track long-term, reasonable progress in a Class I area, the visibility SIP should identify how it will be addressed. Your state may already have a smoke management program (SMP) that adequately describes how visibility impairment from fire will be addressed. If fire has been determined to contribute to visibility impairment, we suggest including a fire emissions inventory along with a comment about its reliability and a projection for changes to the future inventory. If your state has a SMP, is it a basic smoke management program or an enhanced smoke management plan? And has the SMP been certified by the Environmental Protection Agency (EPA) Interim Air Quality Policy on Wildland and Prescribed Fire? Identify the specific SMP requirements for minimizing visibility impairment in Class I areas. Are there differences in state regulation for the way in which smoke from agricultural burning and forest fires are treated? Is there a difference in the way emissions from wildfire, prescribed fire, and wildland-fire-use (WFU) fire are identified and treated on private, state, and federal lands?

Regional Consistency

The RPOs have been working toward regionally-consistent approaches to address visibility impairment throughout the SIP development process. There may be circumstances when different methods were used or impairment assessments reached different conclusions. The FLM understands that each state knows what emission control methods or air quality management strategies work best for its areas. Each state may wish to develop strategies that are independent from RPO or neighboring areas.

In this context, our review of “regional consistency” will have less to do with individual discretion each state has in making decisions, and more on how well a group of states identifies and addresses similar agreed upon goals for each Class I area within a common area of influence.

Regional consistency can also be difficult to evaluate if neighboring SIPs (or portions of SIPs) are released for review at different times. We expect that thorough inter-state consultation processes will lead to consistent descriptions of apportionment and emission control goals, thus resulting in development of similar progress goals, regardless of release dates.

Verification and Contingencies

Little emphasis has been placed in the RHR on verification and even less on contingency planning. By rule, each SIP must identify the monitoring data used to specify the original baseline and also as part of an ongoing progress review at five year intervals.

Given the uncertain future of any individual monitoring site, we suggest that the SIP address the representation of both primary and alternative data sites for each Class I area.

Consider not only the data necessary to measure progress, but also how to account for and mitigate both unexpected and reasonably foreseeable emissions growth, changes to the geographic distribution of emissions, and substantive errors that may be found in emission inventories or other technical bases of the SIPs. These factors, as well as other unanticipated circumstances, may adversely affect your state's ability to achieve the emissions reductions projected by the SIP. Considering these factors through adaptive management or continual review strategies may assist in avoiding these circumstances.

Coordination and Consultation

The 1999 RHR requires states to consult with the FLM agencies at least 60 days prior to holding any public hearing on a RHR, SIP, or SIP revision (40 CFR 51.308(i)). As named in the cover letter to this enclosure, a single FS air specialist has been assigned to your state.