

Nitrogen oxides, Particulate matter, Regional haze, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 10, 2017.

Walter Mugdan,

Acting Regional Administrator, Region 2.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2015-0498; FRL-9965-47-Region 2]

Approval and Promulgation of Implementation Plans; New York; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve New York State's regional haze progress report, submitted on June 16, 2015, as a revision to its State Implementation Plan (SIP). New York's SIP revision addresses requirements of the Clean Air Act and its implementing regulations that the State submit periodic reports describing progress toward reasonable progress goals established for regional haze and a determination of the adequacy of the State's existing regional haze SIP. New York's progress report notes that New York has implemented the measures in the regional haze SIP due to be in place by the date of the progress report and that visibility in federal Class I areas affected by emissions from New York State is improving and has already met the applicable reasonable progress goals for 2018. The EPA is proposing approval of New York's determination that the State's regional haze SIP is adequate to meet these reasonable progress goals for the first implementation period, which extends through 2018, and requires no substantive revision at this time.

DATES: Comments must be received on or before August 31, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R02-OAR-2015-0498 to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The Environmental Protection Agency (EPA) may publish any comment received to its public docket. Do not submit

electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

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I. Background

States are required to submit a progress report in the form of a SIP revision that evaluates progress towards the reasonable progress goals (RPGs) for each mandatory Class I federal area¹ (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The progress report SIP for the first planning period is due five years after submittal of the initial regional haze SIP. On March 15, 2010, New York submitted the State's first regional haze SIP in accordance with 40 CFR 51.308.²

¹ Areas designated as mandatory Class I federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). Listed at 40 CFR part 81, subpart D.

² On August 28, 2012, at 77 FR 51915, EPA approved New York's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze. The EPA

On June 16, 2015, New York submitted, as a revision to its SIP, its progress report which detailed the progress made in the first planning period toward implementation of the Long Term Strategy (LTS) outlined in the 2010 regional haze SIP submittal, the visibility improvement measured at Class I areas affected by emissions from New York State, and a determination of the adequacy of the State's existing regional haze SIP. The EPA is proposing to approve New York's June 16, 2015 SIP submittal.

II. EPA's Evaluation of New York's SIP Revision

New York's report on progress made in the first implementation period toward reasonable progress goals for Class I areas affected by emissions from sources in New York (also known as a regional haze five-year progress report or progress report) was submitted to the EPA as a SIP revision. This progress report SIP submittal also included a determination that the State's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. New York State, in section 1.4 of its 2010 regional haze SIP submittal, used data from the report in Appendix A of its plan *Contributions to Regional Haze in the Northeast and Mid-Atlantic United States*, to determine that emissions from sources in New York State contribute to visibility impairment in the following Class I areas: Acadia National Park, Maine, Brigantine Wildlife Refuge, New Jersey, Great Gulf Wilderness Area, New Hampshire, Lye Brook Wilderness Area, Vermont, Moosehorn National Wildlife Refuge, Maine, Presidential Range-Dry River Wilderness Area, New Hampshire, and Roosevelt-Campobello International Park, Maine/Canada. See 77 FR 24794, 24799 (April 25, 2012). There are no Class I areas in New York.

Through the consultation process, New York agreed to reduce emissions by at least the amount obtained by the measures in the coordinated course of action agreed to by the Mid-Atlantic/Northeast Visibility Union (MANE-VU)³ to assure reasonable progress

promulgated a Federal Implementation Plan for Best Available Retrofit Technology (BART) for two sources where the EPA disapproved New York's BART determinations.

³ MANE-VU is a collaborative effort of State governments, Tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the Northeastern United States. Member State and Tribal governments include: Connecticut, Delaware, the District of Columbia,

toward preventing any future, and remedying any existing, impairment of visibility in the mandatory Class I areas within the MANE-VU region. These strategies are commonly referred to as the MANE-VU “ask.” The MANE-VU “ask” includes: A timely implementation of best available retrofit technology (BART) requirements, 90 percent or more reduction in sulfur dioxide (SO₂) at 167 electric generating units (EGUs) “stacks” identified by MANE-VU (or comparable alternative measures), lower sulfur fuel oil (with limits specified for each state) and continued evaluation of other control measures.⁴ In summary, New York is on track to fulfill the MANE-VU “ask” by meeting the deadlines for BART requirements, as of the date of the progress report, for all BART-eligible facilities as described in section 4 of New York’s progress report, instituting 90 percent or more control at New York’s share of the 167 EGUs identified by MANE-VU (Table 4.3 in the progress report), and adoption of the lower limits for sulfur in fuel oil.

A. Regional Haze Progress Report

This section includes the EPA’s analysis of New York’s progress report SIP submittal, and an explanation of the basis of our proposed approval.

New York’s 2010 regional haze SIP⁵ included the following key measures: Control measures for the State’s subject-to-BART sources, control measures for EGU stacks, and low sulfur fuel oil. New York has eleven of the 167 EGU stacks identified for control of SO₂ emissions in the MANE-VU “ask.” Overall, New York’s EGU stacks, as of the 2013 emission inventory, have reduced emissions by 97 percent, exceeding the MANE-VU “ask.”

Between the New York State regional haze SIP and EPA’s BART FIP, New York has BART determinations for fifteen sources. As documented in Table 3.1 of New York’s progress report, these sources are implementing BART controls, or have been shut down.

New York has also adopted a State law reducing the sulfur content of fuel oil. The EPA, in approving New York regional haze SIP, approved the inclusion of the State sulfur in fuel law as a measure in New York’s SIP.

The EPA proposes to find that New York’s analysis in its regional haze progress report SIP adequately addresses the applicable provisions under 40 CFR 51.308(g), as the State demonstrated the implementation of measures within New York, including applying BART at eligible sources.

During the development of the regional haze SIP for the first planning period, MANE-VU and New York determined that SO₂ was the greatest contributor to anthropogenic visibility impairment at Class I areas. Therefore, the bulk of visibility improvement achieved in the first planning period was expected to result from reductions in SO₂ emissions from sources inside and outside of the State. Section 6 of New York’s progress report shows the calculated reductions of SO₂ and other pollutants from 2002 through 2011. Section 7 of New York’s progress report details the SO₂ emission reductions projected for 2018, compared with the 2011 emissions inventory. Pollutants that affect visibility, SO₂, nitrogen dioxide (NO₂) and particulate matter (PM), have been reduced substantially from 2002, and all except NO₂ already have lower emissions than projected for 2018. NO₂ emissions, having been reduced from 1,125,263 tons per year in

2002 to 444,048 tons per year in 2011, are well on their way to achieving the 2018 projection of 323,203 tons per year (see Tables 7.4, 7.5 and 7.6 in New York’s progress report).

The EPA proposes to find New York has adequately addressed the provisions under 40 CFR 51.308(g). New York detailed the SO₂ and nitrogen oxides (NO_x) reductions from the 2002 regional haze baseline to 2011, the most recently available year of data at the time of the development of New York’s progress report. In addition, New York highlighted SO₂ emissions reductions, as the pollutant targeted by MANE-VU states for the most reductions, from all of New York’s EGUs during this same time period.

The provisions under 40 CFR 51.308(g) also require that states with Class I areas within their borders provide information on current visibility conditions and the difference between current visibility conditions and baseline visibility conditions expressed in terms of five-year averages of these annual values. New York has no Class I areas, but the Class I areas affected by emissions from New York have current visibility conditions better than baseline conditions, approaching the conditions predicted for 2018.

The Interagency Monitoring of Protected Visual Environments monitoring program (IMPROVE) provides data on the air pollutants that constitute regional haze. New York’s progress report includes data from the IMPROVE sites at Class I areas affected by emissions from New York. The table shows the progress from the baseline 2000–2004 five-year average visibility through the most recent 2009–2013 five-year average visibility SIP.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS

[All values in deciviews]

| Class I area IMPROVE* site | 2000–2004 5-year average | 2009–2013 5-year average | Met 2018 progress goal already? | 2018 Reasonable progress goal |
|--------------------------------------|--------------------------------|--------------------------------|---------------------------------------|-------------------------------------|
| 20% Worst Days | | | | |
| Acadia National Park | 22.9 | 17.9 | Yes | 19.4 |
| Moosehorn Wilderness Area ** | 21.7 | 16.8 | Yes | 19.0 |
| Great Gulf Wilderness Area *** | 22.8 | 16.7 | Yes | 19.1 |
| Lye Brook Wilderness Area | 24.4 | 18.8 | Yes | 20.9 |
| Brigantine Wilderness Area | 29 | 23.8 | Yes | 25.1 |

Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont.

⁴ The MANE-VU “Ask” was structured around the finding that SO₂ emissions were the dominate visibility impairing pollutant at the Northeastern

Class I areas and electrical generating units comprised the largest SO₂ emission sector. See “Regional Haze and Visibility in the Northeast and Mid-Atlantic States,” January 31, 2001.

⁵ On August 28, 2012, (77 FR 51915), EPA finalized a limited approval of New York’s March 15, 2010 SIP to address the first implementation

period for regional haze. New York supplemented its SIP on August 2, 2010, April 16, 2012 and July 2, 2012. These supplements and a Federal Implementation Plan for two of New York’s BART determinations are part of New York’s plan to be evaluated by New York’s progress report.

TABLE 2—OBSERVED VISIBILITY VS. REASONABLE PROGRESS GOALS—Continued
[All values in deciviews]

| Class I area IMPROVE* site | 2000–2004 5-year average | 2009–2013 5-year average | Met 2018 progress goal already? | 2018 Reasonable progress goal |
|----------------------------------|--------------------------------|--------------------------------|---------------------------------------|-------------------------------------|
| 20% Best Days | | | | |
| Acadia National Park | 8.8 | 7.0 | Yes | 8.8 |
| Moosehorn Wilderness Area | 9.2 | 6.7 | Yes | 9.2 |
| Great Gulf Wilderness Area | 7.7 | 5.9 | Yes | 7.7 |
| Lye Brook Wilderness Area | 6.4 | 4.9 | Yes | 6.4 |
| Brigantine Wilderness Area | 14.3 | 12.3 | Yes | 14.3 |

* IMPROVE = Interagency Monitoring of Protected Visual Environments program.

** The IMPROVE monitor for Moosehorn Wilderness also represents Roosevelt Campobello International Park.

*** The IMPROVE monitor for Great Gulf Wilderness also represents Presidential Range—Dry River Wilderness Area.

Data from *Tracking Visibility Progress*, posted on NESCAUM's Web site at <http://www.nescaum.org/topics/regional-haze/regional-haze-documents>, supplemented by data from the IMPROVE network as included in New York's progress report.

The EPA notes the substantial progress, as the Class I areas affected by emissions from New York State have already achieved and surpassed the 2018 RPGs.

The EPA proposes to find New York provided the required information regarding visibility conditions to meet the applicable requirements under 40 CFR 51.308(g), specifically providing baseline visibility conditions (2000–2004), current conditions based on the most recently available IMPROVE monitoring data (2009–2013), and an assessment of the change in visibility impairment at its Class I areas.

In its progress report SIP, New York presents data from statewide emissions inventories—New York's State Periodic Emissions Inventory—developed for the years 2002 and 2011, plus projected inventories for 2018, for SO₂, NO_x, fine particles with diameters that are generally 2.5 micrometers and smaller (PM_{2.5}) and volatile organic compounds (VOCs). New York's emissions inventories include the following source classifications: Point, area, on-road mobile, and non-road mobile. The progress report also includes more detailed information on reductions in sulfur oxides (SO_x) emissions from EGUs, and PM, NO_x and SO_x from BART-eligible sources.

Overall, New York's emissions that affect visibility were reduced in all sectors for all pollutants, except for area source NO_x emissions, which increased by 15,000 tons per year, compared to the 681,000 ton per year decrease in total NO_x emissions in New York State. Compared to the 2002 inventory New York used to model haze, actual emissions in 2011 were reduced by 81 percent for SO₂, 61 percent for NO_x, and 28 percent for PM. The 2011 emissions from New York are below the projected 2018 emissions for SO₂ and PM, and only about one-third more than the NO_x

emissions projected for 2018. Since New York is successfully implementing its emission reductions programs in its regional haze SIP, New York is on track for its emissions in 2018 to be lower than the emissions reductions modeled for 2018 in its 2010 haze SIP.

The EPA is proposing to find that New York adequately addressed the provisions of 40 CFR 51.308(g). New York's progress report compared the most recent updated emission inventory data available at the time of the development of the progress report with the baseline emissions used in the modeling for the regional haze SIP.

In its progress report SIP, New York did not find any significant changes in emissions of SO_x, NO_x and PM_{2.5} which might have impeded or limited progress during the first planning period. As noted earlier, haze at Class I areas affected by emissions from New York has improved to levels that meet or exceed the RPG. The EPA therefore proposes to approve New York's SIP submission.

In its progress report SIP, New York concludes the elements and strategies relied on in its original regional haze SIP are sufficient to enable New York and neighboring states to meet all established RPGs. As shown in Table 2, visibility on least impaired and most impaired days from 2000 through 2013 has improved at all Class I areas affected by emissions from New York (and all RPGs have already been met).

The EPA proposes to agree New York has adequately addressed the provisions for the first planning period progress reports. The EPA views this requirement as an assessment that should evaluate emissions and visibility trends and other readily available information. In its progress report, New York described the improving visibility trends using data from the IMPROVE network and the downward emissions trends in key

pollutants in the State and the MANE–VU region. New York determined its regional haze SIP is sufficient to meet the RPGs for the Class I areas impacted by the State's emissions.

New York does not have any Class I areas and is not required to monitor for visibility-impairing pollutants. New York's visibility monitoring strategy relies upon Class I areas' participation in the IMPROVE network. The EPA proposes to find New York has adequately addressed the requirements for a monitoring strategy for regional haze and proposes to determine no further modifications to the monitoring strategy are necessary.

B. Determination of Adequacy of Existing Regional Haze Plan

In its progress report, New York submitted a negative declaration to EPA regarding the need for additional actions or emission reductions in New York beyond those already in place and those to be implemented by 2018 according to New York's regional haze plan.

In the 2015 SIP submittal, New York determined the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's negative declaration is the finding that visibility has improved at all Class I areas in the MANE–VU region. In addition, SO₂ and PM emissions from the latest emission inventory for New York have decreased to levels below the projections for 2018.

The EPA proposes to conclude that New York has adequately addressed the provisions under 40 CFR 51.308(h) because visibility and emission trends indicate that Class I areas impacted by New York's sources are meeting or exceeding the RPGs for 2018, and expect to continue to meet or exceed the RPGs for 2018.

III. Proposed Action

The EPA is proposing to approve New York State's regional haze progress report as meeting the requirements of 40 CFR 51.308(g) and (h).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175, November 18, 2015, because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Regional haze, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 10, 2017.

Walter Mugdan,

Acting Regional Administrator, Region 2.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS-2017-0001]

Defense Federal Acquisition Regulation Supplement: DFARS Subgroup to the DoD Regulatory Reform Task Force, Review of DFARS Solicitation Provisions and Contract Clauses

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Extension of comment period.

SUMMARY: In accordance with Executive Order 13777, "Enforcing the Regulatory Reform Agenda," the DFARS Subgroup to the DoD Regulatory Reform Task Force is seeking input on Defense Federal Acquisition Regulation Supplement (DFARS) solicitation provisions and contract clauses that may be appropriate for repeal, replacement, or modification. The comment period is extended three weeks.

DATES: For the request for public comment published on June 20, 2017 (82 FR 28041), submit comments by September 11, 2017.

ADDRESSES: Submit comments identified by DFARS-RRTF-2017-01, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for "DFARS-RRTF-2017-01." Select "Comment Now" and follow the instructions provided to submit a comment. Please include "DFARS-RRTF-2017-01" on any attached documents.

- *Fax:* 571-372-6094.

- *Mail:* Defense Acquisition Regulations System, Attn: DFARS Subgroup RRTF, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, telephone 571-372-6100; or Ms. Carrie Moore, telephone 571-372-6093.

SUPPLEMENTARY INFORMATION: On February 24, 2017, the President signed Executive Order (E.O.) 13777, "Enforcing the Regulatory Reform Agenda," which established a Federal policy "to alleviate unnecessary regulatory burdens" on the American people. Section 3(e) of the E.O. 13777 calls on the Task Force to "seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, trade associations" on regulations. On June 20, 2017, DoD solicited such input from the public to inform evaluation of the DFARS solicitation provisions and contract clauses by the Task Force's DFARS Subgroup. The comment period is extended three weeks from August 21, 2017, to September 11, 2017, to provide additional time for interested parties to provide input.