6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2013-0423; FRL- 9908-03-Region-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the West Virginia State Implementation Plan (SIP) submitted by the State of West Virginia (West Virginia) through the West Virginia Department of Environmental Protection (WVDEP). West Virginia's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (regional haze SIP). EPA is proposing approval of West Virginia's SIP revision on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATE: Comments must be received on or before [insert 30 days from the date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2013-0423, by one of the following methods:

A. www.regulations.gov. Follow the on-line instructions for submitting comments.

B. E-mail: fernandez.cristina@epa.gov.

C. Mail: EPA-R03-OAR-2013-0423, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2013-0423. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulation.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of West Virginia's submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE, Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814-2071, or by e-mail at khadr.asrah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same

time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. *See* 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP. On June 18, 2008, WVDEP submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308.[1]

On April 30, 2013, West Virginia submitted, as a SIP revision (progress report SIP), a report on progress made in the first implementation period towards RPGs for Class I areas in West Virginia and Class I areas outside West Virginia that are affected by emissions from West Virginia's sources. This progress report SIP included a determination that West Virginia's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is proposing to approve West Virginia's progress report SIP on the basis that it satisfies the requirements of 40 CFR 51.308(g) and 51.308(h).

[1] On March 23, 2012 (77 FR 16937), EPA finalized a limited approval and limited disapproval of West Virginia's June 18, 2008 regional haze SIP to address the first implementation period for regional haze. There was a limited disapproval of this SIP because of West Virginia's reliance on the Clean Air Interstate Rule (CAIR) to meet certain regional haze requirements, which EPA replaced in August 2011 with the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208, August 8, 2011). Later on, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P.* v. *EPA*, 696 F.3d 7 (D.C. Cir. 2012), *cert. granted* 133 U.S. 2857 (2013) vacating CSAPR and keeping CAIR in place pending the promulgation of a valid replacement rule. EPA believes that the *EME Homer City* decision impacts the reasoning that formed the basis for EPA's limited disapproval of West Virginia's regional haze SIP based on West Virginia's reliance upon CAIR and expects to propose an appropriate action regarding the limited approval and limited disapproval of the regional haze SIP upon final resolution of *EME Homer City*.

II. Requirements for the Regional Haze Progress Report SIPs and Adequacy Determinations

Under 40 CFR 51.308(g), states must submit a regional haze progress report as a SIP revision every five years and must address, at a minimum, the seven elements found in 40 CFR 51.308(g). As described in further detail in section III of this rulemaking action, 40 CFR 51.308(g) requires: (1) A description of the status of measures in the approved regional haze SIP; (2) a summary of emissions reductions achieved; (3) an assessment of visibility conditions for each Class I area in the state; (4) an analysis of changes in emissions from sources and activities within the state; (5) an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; (6) an assessment of the sufficiency of the approved regional haze SIP; and (7) a review of the state's visibility monitoring strategy.

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. As described in further detail in section III of this rulemaking action, 40 CFR 51.308(h) requires states to either: (1) Submit a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other state(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with

these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

III. EPA's Analysis of West Virginia's Regional Haze Progress Report and Adequacy Determination

The West Virginia progress report SIP revision addresses progress made towards RPGs of Class I areas in West Virginia and Class I areas outside West Virginia that are affected by emissions from West Virginia's sources. This progress report SIP also includes a determination of the adequacy of West Virginia's existing regional haze SIP.

West Virginia has two Class I areas within its borders: Dolly Sods Wilderness Area (Dolly Sods) and Otter Creek Wilderness Area (Otter Creek). West Virginia mentions in the progress report SIP that West Virginia sources were also identified, through an area of influence modeling analysis based on back trajectories, as potentially impacting six Class I areas in five neighboring states: Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face in Virginia; Linville Gorge in North Carolina; Monmouth Cave National Park in Kentucky; and Shenandoah National Park in Virginia.

A. Regional Haze Progress Report SIPs

This section summarizes each of the seven elements that must be addressed by the progress report under the provisions of 40 CFR 51.308(g); how West Virginia's progress report SIP addressed each element; and EPA's analysis and proposed determination as to whether West Virginia satisfied each element.

The provisions under 40 CFR 51.308(g)(1) require a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state. West Virginia evaluated the status of all measures included in its 2008 regional haze SIP in accordance with the requirements under 40 CFR 51.308(g)(1). Specifically, in its progress report SIP, West Virginia summarizes the status of the emissions reduction measures that were included in the final iteration of the Visibility Improvement - State and Tribal Association of the Southeast (VISTAS) regional haze emissions inventory and RPG modeling. West Virginia also discusses the status of those measures that were not included in the final VISTAS emissions inventory and were not relied upon in the initial regional haze SIP to meet RPGs. West Virginia notes that the emissions reductions from these measures, which are relied upon for reasonable progress, will help ensure Class I areas impacted by West Virginia sources achieve their RPGs. The measures include applicable Federal programs (e.g., mobile source rules, Maximum Achievable Control Technology (MACT) standards, Federal consent agreements, and Federal and state control strategies for electric generating units (EGUs) such as CAIR, CSAPR, and state multi-pollutant regulations for EGUs). West Virginia's summary includes a discussion of the benefits associated with each measure and quantifies those benefits

wherever possible. In instances where implementation of a measure did not occur on schedule, information is provided on the source category and the measure's relative impact on the overall future year emissions inventories. The progress report SIP also discusses the status and implementation of the best available retrofit technology (BART) determinations for BART sources in West Virginia, and the implementation status of BART for a source in a neighboring state. Finally, West Virginia's progress report SIP discusses implementation of regulations and requirements developed after the original regional haze SIP was prepared which West Virginia asserts will provide extra assurance that West Virginia's Class I areas will meet their RPGs. Some of these regulations and requirements include the Mercury and Air Toxics Standard (MATS) for EGUs, the 2010 sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS), Control Technique Guidelines for volatile organic compound (VOC) reductions, Federal consent decrees which include SO_2 and nitrogen oxide (NOx) reductions at sources, and plant shutdowns.

In aggregate, as noted later in section III.A of this rulemaking action, West Virginia notes in its submittal that overall SO_2 emissions (the largest contributor to visibility impairment) have decreased in the State and will continue to decrease; therefore, West Virginia does not expect reasonable progress to be adversely impacted in any of the Class I areas in West Virginia or neighboring states.

EPA proposes to find that West Virginia's analysis adequately addresses the provisions under 40 CFR 51.308(g)(1). West Virginia documents the implementation status of measures from its

regional haze SIP such as regulations, Federal consent decrees, and BART determinations in addition to describing additional measures that came into effect since the VISTAS analysis for the West Virginia regional haze SIP was completed, including new regulations for EGUs, Federal consent decrees, and unanticipated plant shutdowns. West Virginia's progress report also describes significant measures resulting from EPA regulations other than the regional haze program as they pertain to West Virginia sources. The progress report SIP highlights the effect of several Federal control measures both nationally and in the VISTAS region, and when possible, in West Virginia.

West Virginia's progress report discusses the status of key control measures that were relied upon in the first implementation period to make reasonable progress. In its regional haze SIP, West Virginia identified SO_2 emissions from EGUs as a key contributor to regional haze in the VISTAS region and identified the EGU sector as a major contributor to visibility impairment at all Class I areas in the VISTAS region. West Virginia's progress report SIP provides additional information on EGU control strategies and the status of existing and future expected controls for West Virginia's EGUs, with updated actual SO_2 emissions data for the years 2002 – 2011 reflecting significant reductions of SO_2 through 2011.

Regarding the status of BART and reasonable progress control requirements for sources in West Virginia, EPA finds the progress report SIP adequately reviews the status of West Virginia's BART sources and the one source that required further analysis to meet reasonable progress requirements by mentioning that controls are currently operational at these sources or that units

have been shut down. Because West Virginia found no additional controls to be reasonable for the first implementation period for sources evaluated for reasonable progress in West Virginia, no further discussion of the status of controls was necessary in the progress report SIP. EPA proposes to conclude that West Virginia has adequately addressed the status of control measures in its regional haze SIP as required by the provisions under 40 CFR 51.308(g)(1) by discussing the status of key measures that were relied upon in the first implementation period to make reasonable progress.

The provisions under 40 CFR 51.308(g)(2) require a summary of the emissions reductions achieved in the state through the measures subject to the requirements under 40 CFR 51.308(g)(1). In its regional haze SIP and progress report SIP, West Virginia focuses its assessment on the largest contributor to visibility impairment, SO_2 emissions from EGUs. West Virginia made the decision that SO_2 emissions from EGUs are the largest contributor to visibility impairment in its original regional haze SIP.

Overall, West Virginia states SO_2 emissions have decreased significantly. West Virginia states there has been a large reduction in SO_2 emissions from EGUs, an 81.7 percent (%) decrease from 2002 to 2011, which resulted from many process and operational changes, including SO_2 control installations and switches to cleaner fuels by emission units. Based on utility emissions data from 2002 through 2011 as reported in EPA's Clean Air Markets Division (CAMD) database, West Virginia indicates that actual emissions of SO_2 from the EGU sector have dropped from 507,110 tons per year (tpy) in 2002 to 92,609 tpy in 2011, reflecting the 81.7%

decrease. Additionally, the 2011 actual emissions of SO_2 (92,609 tpy) are substantially less than originally projected in the 2018 modeling inventory (106,199 tpy).[2]

While heat input to West Virginia's EGUs has decreased approximately 17.7% from 2002 to 2011, West Virginia states in its progress report SIP that SO_2 emission rates for EGUs have decreased by 77.8% due to installation of controls and fuel switches. Given these substantial reductions in emission rates, West Virginia expects the significant reductions of SO_2 should be maintained and expects emissions reductions to continue in the future. West Virginia also states in its progress report SIP that it expects additional retirements of EGU sources which will contribute to increased emissions reductions in the future.

EPA proposes to conclude that West Virginia has adequately addressed the requirements under 40 CFR 51.308(g)(2) with its summary of the large emissions reductions, particularly in SO_2 from EGUs, achieved through the measures in West Virginia's regional haze SIP. West Virginia provides estimates, and where available, actual emissions reductions of SO_2 from EGUs in West Virginia that have occurred since the submittal of its regional haze SIP. West Virginia appropriately focuses on SO_2 emissions from its EGUs in its progress report SIP because it had been previously identified that these emissions are the most significant contributors to visibility impairment at Dolly Sods and Otter Creek and at additional Class I areas that West Virginia sources impact. In addition, West Virginia provides estimates, and where available, actual emissions reductions for certain non-EGU control measures that were in its regional haze SIP

[2] West Virginia provides in the progress report SIP SO_2 emissions data for each West Virginia EGU for 2002 through 2011. In addition, West Virginia includes summary SO_2 emissions data from EGUs in all VISTAS states showing similar reductions. According to West Virginia, SO_2 emissions decreased 68.6% from 2002 to 2011 for EGUs in the VISTAS states.

when addressing the requirements under 40 CFR 51.308(g)(1) for implementation status. Because no additional controls were found to be reasonable for the first implementation period for evaluated sources in West Virginia for reasonable progress, EPA proposes to find that no further discussion of emissions reductions from controls was necessary in the progress report SIP.

The provisions under 40 CFR 51.308(g)(3) require that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values:[3] (1) Current visibility conditions; (2) the difference between current visibility conditions and baseline visibility conditions; and (3) the change in visibility impairment over the past five years.
West Virginia provides visibility data for 2001 through 2011 that addresses the three requirements of 40 CFR 51.308(g)(3) for Dolly Sods and Otter Creek. In the West Virginia regional haze SIP, for the 20% worst days, West Virginia established a RPG for Dolly Sods of 7.3 deciview (dv) reduction in visibility impairment by 2018, which is significantly greater than the 4.3 dv reduction required to meet the uniform rate of progress necessary to achieve a natural background condition of 10.4 dv by 2064. For Otter Creek, West Virginia established a RPG for the 20% worst days of 7.3 dv reduction in visibility impairment by 2018, which is significantly greater than the 4.3 dv reduction required to meet the uniform rate of progress necessary to achieve the natural background condition of 10.4 dv by 2064. Likewise, West Virginia also adopted a RPG for the 20% best days that would result in a 1.2 dv reduction in visibility

[3] The "most impaired days" and "least impaired days" in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. *See* 40 CFR 51.301.

impairment for both Dolly Sods and Otter Creek. Based on West Virginia's analysis of emissions reductions and visibility data, West Virginia states it is on track to achieve or exceed its RPGs by 2018 and that visibility is improving at Dolly Sods and Otter Creek.

EPA finds the difference between current and baseline visibility and the five-year rolling averages for the most impaired (20% worst) and least impaired (20% best) days at both West Virginia Class I areas indicates that visibility has significantly improved since the implementation of West Virginia's regional haze SIP. The data submitted by West Virginia shows that there has been a dramatic visibility improvement during the implementation of the 2008 regional haze SIP. Analysis of visibility data provided by West Virginia shows that Dolly Sods and Otter Creek are on the glidepath to achieving natural visibility conditions in 2064.

EPA finds West Virginia provided the required information regarding visibility conditions and changes to meet the requirements under 40 CFR 51.308(g)(3), specifically providing current conditions based on the latest available Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring data, the difference between current visibility conditions and baseline visibility conditions, and the change in visibility impairment over the most recent five-year period for which data were available at the time of the progress report SIP development. Given the visibility improvement in West Virginia's Class I areas, EPA finds West Virginia's assessment that it is on track to meet RPGs by 2018 to be reasonable. EPA proposes to conclude that West Virginia has adequately addressed the requirements under 40 CFR 51.308(g)(3).

The provisions under 40 CFR 51.308(g)(4) require an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory. In its progress report SIP, West Virginia presents emissions inventories for 2002, 2007, 2009, and 2018 in accordance with the requirements of 40 CFR 51.308(g)(4). The progress report SIP includes West Virginia's baseline emissions inventory from 2002 and estimated emissions inventories for 2009 and 2018. West Virginia's progress report SIP includes the 2007 emissions inventory prepared by the Southeastern Modeling, Analysis, and Planning (SEMAP) project, which was funded by EPA and the ten states in VISTAS.[4,5]

The pollutants inventoried include VOCs, NOx, fine particulate matter ($PM_{2.5}$), coarse particulate matter (PM_{10}), ammonia (NH_3), and SO_2. The emissions inventories include the following source classifications: Stationary point and area sources, off-road and on-road mobile sources, and biogenic sources. The comparison of emissions inventory data shows that emissions of the key visibility-impairing pollutant SO_2 continued to drop from 586,437 tpy in 2002 to 437,014 tpy in 2007 to 337,488 tpy in 2009.

Additionally, West Virginia documented the substantial emissions reductions in SO_2 from EGUs that already have occurred and that SO_2 emissions from EGUs for the years 2009, 2010, and 2011 are already under the 2018 SO_2 emissions projections. As noted in section III.A of this

[4] Pursuant to 40 CFR 51.308(b), regional haze SIPs for the first implementation period were due on December 17, 2007. Therefore, EPA finds that the 2007 emissions inventory used by West Virginia in this progress report SIP reflects an appropriate emissions inventory for West Virginia to use for 40 CFR 51.308(g)(4) to track emissions changes of visibility-impairing pollutants from the state's sources.

[5] The 2007 emissions inventory was the most recent historical inventory that had been fully quality-assured at the time West Virginia developed its progress report SIP.

rulemaking action, West Virginia expects overall EGU SO_2 emissions to continue to decline due the retirement of different EGUs and additional fuel switches not previously projected which should result in further visibility improvement at Class I areas affected by West Virginia sources. EPA proposes to conclude that West Virginia has adequately addressed the requirements under 40 CFR 51.308(g)(4). While ideally the five-year period to be analyzed for emissions inventory changes is the time period since the current regional haze SIP was submitted, availability of quality-assured data may not always correspond with this period. Therefore, EPA believes that there is some flexibility in the five-year time period states can select for tracking emissions changes to meet this requirement. EPA proposes to find West Virginia appropriately compared its 2011 EGU SO_2 emissions with the 2007 point source SO_2 emissions.[6] EPA believes that West Virginia presented an adequate analysis tracking emissions trends for the key visibility impairing pollutant SO_2 since 2007 using the emissions data available to West Virginia.[7] West Virginia's 2011 EGU SO_2 emissions show a significant reduction of SO_2 emissions.[8] The West Virginia 2007 point source SO_2 emissions of which a significant portion were EGU emissions were 428,350 tpy while the 2011 EGU SO_2 emissions are 92,609 tpy, which shows a significant reduction of SO_2 emissions from 2007. The 2011 EGU SO_2 emissions are below the emissions projected for 2018, which demonstrates greater progress than West Virginia had projected in its

6 As stated above, West Virginia's 2007 emissions inventory reflects emissions in the year the first regional haze SIP was due per 40 CFR 51.308(b), and EPA finds the 2007 inventory to be an appropriate emissions inventory for West Virginia to use for 40 CFR 51.308(g)(4) to track emissions changes of visibility-impairing pollutants.

[7] According to West Virginia, previous VISTAS modeling from West Virginia's 2008 regional haze SIP had indicated the visibility benefits from reducing NOx emissions were small. EPA notes nevertheless that West Virginia's NOx emissions from all point source sectors decreased by 94,801 tons from 2002 to 2007. In addition, EPA reviewed NOx emissions data from West Virginia EGUs which was provided by West Virginia for 2002-2011. NOx emissions from West Virginia EGUs decreased from approximately 230,000 tons in 2002 to approximately 150,000 tons in 2007 to 55,660 tons in 2011. EPA reviewed CAMD data for NOx emissions from West Virginia EGUs for 2012 and 2013 and notes the NOx emission decreases have been maintained.

[8] EPA reviewed CAMD data for 2012 and 2013 for SO_2 emissions from West Virginia's EGUs and notes that the declining SO_2 emissions trend has continued in 2012 and 2013.

regional haze SIP. EPA believes this provides sufficient information to support the representativeness of the period evaluated by West Virginia particularly as sulfates from EGUs were identified in West Virginia's 2008 regional haze SIP as the largest contributor to visibility impairment at West Virginia's and VISTAS' Class I areas.

The provisions under 40 CFR 51.308(g)(5) require an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources. In its progress report SIP, West Virginia states that sulfates continue to be the biggest single contributor to regional haze at Dolly Sods and Otter Creek. Accordingly, West Virginia focused its analysis on addressing large SO_2 emissions from point sources. In its progress report SIP, West Virginia demonstrates that there has been significant improvement in visibility as well as a significant decrease in sulfates' contribution to visibility impairment.

EPA proposes to find that West Virginia has adequately addressed the provisions under 40 CFR 51.308(g)(5). West Virginia adequately demonstrated that there has been significant improvement in visibility in its Class I areas. West Virginia also adequately demonstrated that there has been a significant decrease in sulfates' contribution to visibility impairment. West Virginia's progress report SIP demonstrates that there are no significant changes in emissions that have impeded its progress in reducing emissions or in improving visibility in the Class I areas within West Virginia or impacted by West Virginia sources. Furthermore, the progress

report SIP shows that the State is on track to meeting its 2018 RPGs for Dolly Sods and Otter Creek.

The provisions under 40 CFR 51.308(g)(6) require an assessment of whether the current regional haze SIP is sufficient to enable the state, or other states, to meet the RPGs for Class I areas affected by emissions from the state. In its progress report SIP, West Virginia states that it believes that the elements and strategies outlined in its original 2008 regional haze SIP are sufficient to enable West Virginia and other neighboring states to meet all the established RPGs. To support this conclusion, West Virginia presents visibility data for all Class I areas inside and outside of the state that are impacted by West Virginia sources. The impacted Class I areas include two areas in West Virginia (Dolly Sods and Otter Creek) and six areas in neighboring states. The impacted Class I areas outside of West Virginia are Brigantine Wilderness in New Jersey; Great Smoky Mountains National Park in North Carolina and Tennessee; James River Face in Virginia, Linville Gorge in North Carolina; Monmouth Cave National Park in Kentucky; and Shenandoah National Park in Virginia. The visibility data provided by West Virginia for Dolly Sods and Otter Creek show that those areas are on track to achieving their 2018 RPGs. Additionally, West Virginia expects SO_2 emissions from West Virginia sources to continue to decrease in the future due to expected shutdowns and installation of controls. Therefore West Virginia expects that visibility impairment in its Class I areas will decrease as well. The visibility data presented for Class I areas outside of West Virginia show that each area is on track to achieve its RPGs in 2018.

EPA proposes to conclude that West Virginia has adequately addressed the requirements of 40 CFR 51.308(g)(6). EPA views this requirement as a qualitative assessment that should evaluate emissions and visibility trends and other readily available information, including expected emissions reductions associated with measures with compliance dates that have not yet become effective. West Virginia referenced the improving visibility trends with appropriately supported data and referenced the downward emissions trends with a focus on SO_2 emissions from West Virginia EGUs that support the determination that the West Virginia 2008 regional haze SIP is sufficient to meet RPGs for Class I areas within and outside the state impacted by West Virginia sources.

The provisions under 40 CFR 51.308(g)(7) require a review of a state's visibility monitoring strategy and an assessment of whether any modifications to the monitoring strategy are necessary. In its progress report SIP, West Virginia summarizes the existing monitoring network at Dolly Sods and Otter Creek and discusses its intended continued reliance on the IMPROVE monitoring network for its visibility planning. West Virginia also mentions its $PM_{2.5}$ monitoring network and that it is used to understand air pollution levels across the state. West Virginia also encourages VISTAS and other regional planning organizations to maintain support of the existing data management system or an equivalent to facilitate availability analysis of IMPROVE and visibility-related data. West Virginia concludes that the existing network is adequate and that no modifications to visibility monitoring strategy are necessary at this time.

EPA proposes to conclude that West Virginia has adequately addressed the sufficiency of its monitoring strategy as required by the provisions under 40 CFR 51.308(g)(7). West Virginia reaffirmed its continued reliance upon the IMPROVE monitoring network and discussed its additional $PM_{2.5}$ monitoring network used to further assess air pollution levels. West Virginia also explained the importance of the IMPROVE monitoring network for tracking visibility trends at Dolly Sods and Otter Creek and identified no expected changes in this network.

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP. The following section summarizes: the action taken by West Virginia under 40 CFR 51.308(h); West Virginia's rationale for the selected action; and EPA's analysis and proposed determination regarding the West Virginia's action.

In its progress report SIP, West Virginia submitted a negative declaration that it had determined that the existing regional haze SIP requires no further substantive revision to achieve the RPGs for Class I areas affected by West Virginia's sources. The basis for the negative declaration is the findings from the progress report (as discussed in section III of this rulemaking action), including the findings that: Visibility data has improved at Dolly Sods and Otter Creek; SO_2 emissions from West Virginia sources have decreased beyond original projections; additional EGU control measures not relied upon in West Virginia's regional haze SIP have been and are being implemented; and the EGU SO_2 emissions in West Virginia are already below the levels

projected for 2018 in the regional haze SIP and are expected to continue to trend downward for the next five years. EPA proposes to conclude West Virginia adequately addressed the requirements of 40 CFR 51.308(h) because the visibility data trends at the Class I areas impacted by West Virginia sources and the emissions trends of the largest emitters of visibility-impairing pollutants both indicate that the RPGs for 2018 will be met or exceeded.

IV. EPA's Proposed Action

EPA is proposing to approve West Virginia's regional haze five-year progress report SIP revision, submitted on April 30, 2013, as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed 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 proposed 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 CAA; and
- does not provide 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 proposed rule to approve West Virginia's regional haze progress report SIP revision does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: March 3, 2014.

W. C. Early,
Acting Regional Administrator,
Region III.

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