



west virginia department of environmental protection

**PROPOSED West Virginia
State Implementation Plan Revision for
Regional Haze and Clean Air Act
§110(a)(2)(D)(i)(II) for Visibility Protection**

July 31, 2015

West Virginia Division of Air Quality
601 57th Street, SE
Charleston, W.Va. 25304

Promoting a healthy environment

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PROPOSED West Virginia State Implementation Plan Revision for Regional Haze and Clean Air Act §110(a)(2)(D)(i)(II) for Visibility Protection

A State Implementation Plan (SIP) is a plan for each state that identifies how that state will attain and/or maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP is a series of complex, fluid documents containing regulations, source-specific requirements, non-regulatory items such as plans and inventories, and in some cases additional requirements promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved by EPA on May 31, 1972. SIPs can be revised by the state with EPA approval as necessary. The federally enforceable SIP for West Virginia is compiled in 40 CFR Part 52, Subpart XX.

This revision to the West Virginia SIP amends the state's Regional Haze SIP to rely on EPA's Cross State Air Pollution Rule (CSAPR) federal implementation plan (FIP) rather than the West Virginia Clean Air Interstate Rule (CAIR) SIP for the control of visibility-impairing emissions from electric generating units. This revision to the SIP also amends West Virginia's 2010 SO₂ National Ambient Air Quality Standards (NAAQS) infrastructure SIP to address federal Clean Air Act (CAA) §110(a)(2)(D)(i)(II) by relying on implementation of the CSAPR FIP to complete the Regional Haze SIP which helps to ensure that West Virginia electrical generating unit emissions will not interfere with neighboring states' reasonable progress towards visibility improvement in Class I areas. Upon approval by EPA, these revisions shall be federally-enforceable components of the West Virginia SIP. For these two revisions to the SIP, it must be demonstrated that the NO_x and SO₂ reductions mandated by CSAPR for West Virginia are at least as stringent as those under CAIR.

CSAPR is as Stringent as CAIR

On May 12, 2005, EPA published CAIR, which was intended to address interstate transport of air pollution as required by §110(a)(2)(D) of the CAA [70 FR 25162]. The rule required 28 states, including West Virginia, to limit their state-wide emissions of SO₂ and NO_x from fossil fuel-fired electrical generating units with a capacity of greater than 25 megawatts. These limitations would reduce or eliminate the states' unlawful contributions to fine particulate matter (PM_{2.5}) and ozone air quality in other states, and thereby help downwind states meet the 1997 PM_{2.5} NAAQS and the 1997 ozone NAAQS. EPA approved West Virginia's CAIR SIP submission on August 04, 2009 [74 FR 38536]. CAIR was heavily litigated and eventually remanded to EPA. However, CAIR remained in effect until EPA could promulgate CSAPR.

EPA published CSAPR as a replacement to CAIR on August 8, 2011 [76 FR 48208]. Similar to CAIR, CSAPR requires certain states to reduce annual SO₂ emissions, annual NO_x emissions and ozone season NO_x emissions to assist with other states' attainment of the 1997 ozone NAAQS, the 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS. Initially, CSAPR addressed emissions from electrical generating units beginning in the year 2012. However, the CSAPR rule was also subject to litigation, prompting a stay until all litigation concluded. CSAPR was eventually upheld, and the U.S. Court of Appeals for the D.C. Circuit ordered that EPA's motion to lift the stay of CSAPR be granted. The EPA Administrator published an interim final ministerial rule on December 3, 2014 revising the compliance deadlines for CSAPR. CSAPR now takes effect January 1, 2015 [79 FR 71663]. Phase I budgets originally scheduled to apply to emissions in 2012 and 2013 and the Phase 2 budgets originally scheduled to apply to emissions in 2014 and later years now apply to 2015, 2016 and 2017, respectively.

Table 1 contains the original CAIR allocations to West Virginia, as well as the regional trading budget for the ozone season NO_x, annual NO_x, and annual SO₂ requirements for each phase of CAIR.

Table 1: West Virginia CAIR Allocations and Regional Trading Budgets

	NO _x O ₃ Season (tons) Table V-4 [70 FR 25233]		NO _x Annual (tons) Table V-2 [70 FR 25231]		SO ₂ Annual (tons) Table V-1 [70 FR 25230]	
	2009-2014	2015 and beyond	2009-2014	2015 and beyond	2009-2014	2015 and beyond
West Virginia	26,859	26,525	74,220	61,850	215,881	151,117
Region-wide	567,744	484,506	1,504,871	1,254,061	3,619,196	2,533,434

Table 2 contains West Virginia's CSAPR budgets, variability limits, assurance levels, and the originally prescribed compliance years for each limitation, which have been rescheduled beginning in 2015 as described above.

Table 2: West Virginia CSAPR Budgets, Variability Limits, Assurance Levels

	Budget		Variability Limit		State Assurance Level	
	2012	2014	2012	2014	2012	2014
	Table VI.D-3 [76 FR 48261]		Table VI.F-2 [76 FR 48269]			
West Virginia	59,472	54,582	10,705	9,825	70,177	64,407
Annual NO _x Total Budget	1,245,869	1,164,910				
	Table VI.D-4 [76 FR 48263]		Table VI.F-3 [76 FR 48270]			
West Virginia	25,283	23,291	5,309	4,891	30,592	28,182
Ozone Season NO _x Total Budget	495,314	466,051				
	Table VI.D-3 [76 FR 48261]		Table VI.F-1 [76 FR 48269]			
West Virginia	146,174	75,668	26,311	13,620	172,485	89,288
Annual SO ₂ Total Budget	3,385,929	2,135,026				

As demonstrated in the tables above, the NO_x and SO₂ reductions mandated by CSAPR for West Virginia are at least as stringent as those under CAIR for electrical generating units. In accordance with the revised compliance deadlines, CSAPR will be fully implemented by the end of the first Regional Haze planning period (2018). The reliance on CSAPR in the stead of CAIR within the following SIP revisions will allow West Virginia to comply with all CAA mandates and to meet the goals and objectives of the particular SIPs described below.

Revision to the West Virginia Regional Haze SIP

West Virginia submitted its Regional Haze SIP to EPA Region III on June 18, 2008. EPA subsequently published limited approval and disapproval of the SIP revision on March 23, 2012 [77 FR 16937]. The limited disapproval resulted from the CAIR remand to EPA by the U.S. Court of Appeals for the D. C. Circuit. As required by the CAA, the Regional Haze SIP established Best Available Retrofit Technology (BART) for a number of applicable units as well as demonstrated reasonable progress towards the interim visibility improvement goals assigned to the Class 1 Dolly Sods and Otter Creek Wilderness Areas.

After thorough study and analysis, West Virginia's Regional Haze SIP concluded that sulfates were the chief cause of visibility impairment at West Virginia's Class I areas, and that the main emissions sectors responsible for this sulfate impairment were coal-fired electrical generating units and coal-fired industrial boilers. CAIR addressed SO₂ emissions from coal-fired electrical generating units of more than 25 megawatts capacity, and played a large part in the development of the reasonable progress analysis within the Regional Haze SIP. Additionally, West Virginia determined that units subject to both CAIR and BART need only comply with CAIR for SO₂ and NO_x to satisfy BART requirements, as allowed by federal rule.

On June 7, 2012, EPA published "Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans" [77 FR 33642]. This final rule noted that states subject to CSAPR may rely on CSAPR as an alternative to BART for NO_x and SO₂. The rule also finalized limited disapproval of the West Virginia Regional Haze SIP and at the same time promulgated a FIP for West Virginia. This FIP replaced the use of CAIR with the use of CSAPR in the West Virginia Regional Haze SIP.

To ensure that the West Virginia Regional Haze SIP is complete, West Virginia herein revises the West Virginia Regional Haze SIP to rely on CSAPR to meet BART and reasonable progress for electrical generating units, as well as to support the visibility improvement progress goals for the Class 1 Dolly Sods and Otter Creek Wilderness Areas, in accordance with 40 CFR §51.308(e)(4). Tables 1 and 2 above demonstrate that for West Virginia, CSAPR is at least as stringent as CAIR, and CSAPR limitations will be fully implemented by 2018, the end of the first Regional Haze implementation period. Relying on CSAPR instead of CAIR for these emission reductions will in no way weaken the protections to visibility and visibility improvements contained within the West Virginia Regional Haze SIP.

Revision to the West Virginia 2010 SO₂ NAAQS Infrastructure SIP

States must submit infrastructure SIPs within three years of the promulgation of any new NAAQS. The CAA mandates that these infrastructure SIPs show that states meet all requirements for implementing the new standard, as listed in §110(a)(2), and these SIPs include monitoring, funding, compliance, enforcement, and permitting program information as well as other necessary supporting data.

On June 25, 2013, West Virginia submitted an infrastructure SIP for the 2010 SO₂ NAAQS. EPA subsequently approved this SIP revision on October 16, 2014 [79 FR 62022], but did not take action on section 110(a)(2)(D)(i)(II) for visibility protection.

This revision to the SIP amends West Virginia’s 2010 SO₂ NAAQS infrastructure SIP to address CAA §110(a)(2)(D)(i)(II) for visibility protection by relying on implementation of the CSAPR FIP to complete the Regional Haze SIP which helps to ensure that West Virginia electrical generating unit emissions will not interfere with neighboring states’ reasonable progress towards visibility improvement in Class I areas.

Section 110(a) element	<i>The implementation plan shall:</i>	West Virginia Implementation
§110(a)(2)(D)	<p><i>contain adequate provisions -</i></p> <p><i>(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will-</i></p> <p><i>(II) interfere with measures required to protect visibility.</i></p>	<p>Interference With Measures Required to Protect Visibility: West Virginia received partial approval of its Regional Haze SIP on March 23, 2012 [77 FR 16973]. The SIP revision did not receive full approval solely because of its reliance on the Clean Air Interstate Rule.</p> <p>This revision to the SIP ensures that the West Virginia Regional Haze SIP is complete by relying on CSAPR to meet BART and reasonable progress for electrical generating units, as well as to support the visibility improvement progress goals for the Class 1 Dolly Sods and Otter Creek Wilderness Areas, in accordance with 40 CFR §51.308(f). Tables 1 and 2 above demonstrate that for West Virginia, CSAPR is at least as stringent as CAIR, and CSAPR limitations will be fully implemented by 2018, the end of the first Regional Haze implementation period. Relying on CSAPR instead of CAIR for these emission reductions will in no way weaken the protections to visibility and visibility improvements contained within the West Virginia Regional Haze SIP.</p>



west virginia department of environmental protection

FLM Consultation

Promoting a healthy environment.

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Crowder, Laura M

From: Crowder, Laura M
Sent: Friday, May 22, 2015 4:48 PM
To: Sandra_V_Silva@fws.gov; Sandra_V_Silva@fws.gov; Clyde N. Thompson; Chuck Sams
Cc: Mastro, Donna; Patricia Brewer; Tim Allen (Tim_Allen@fws.gov); Bret Anderson; Jim_Renfro@nps.gov; Bjackson02@fs.fed.us; Jalyn_Cummings@nps.gov; Durham, William F; Mason, James L; Denesia_Cheek@nps.gov; Carol_McCoy@nps.gov; LGeiser@fs.fed.us; tamara_McCandles@fws.gov; Marilyn Powers (Powers.Marilyn@epa.gov)
Subject: WV - Opportunity for FLM review and consultation re Interstate trading elements related to Regional Haze
Attachments: DRAFT2015WVSO2-RHISIP 2015-05-22.pdf; WV FLM Consultation Letter 2015-05-22 Signed.pdf

Re: West Virginia Regional Haze Rule Consultation with Federal Land Managers

Dear Federal Land Managers:

The 1999 Regional Haze Rule (RHR) required states to develop State Implementation Plans (SIPs) to reduce visibility impairment with the express intent that by 2064 the visibility in all Class I areas will be returned to natural conditions. The RHR also requires the state to consult with the Federal Land Managers (FLMs) at least 60 days prior to holding any public hearing on a Regional Haze SIP (RH SIP) or SIP revision [40 CFR §51.308(i)]. We believe that such consultation can be sufficiently accomplished via written communication, including email and/or letter. However, if your agency desires an in person consultation or teleconference, please advise us as soon as practicable, but no later than 30 days after receipt of this letter.

The West Virginia Department of Environmental Protection (DEP) submitted its original RH SIP to the U.S. Environmental Protection Agency (EPA) on June 18, 2008. On March 23, 2012, the EPA published a final rule granting limited approval [77 FR 16937] of West Virginia's RH SIP. After thorough study and analysis, this plan concluded that sulfates were the chief cause of visibility impairment in West Virginia's Class I area areas, and that the main emissions sectors responsible for the sulfate impairment were coal-fired electric generating units (EGUs) and coal-fired industrial boilers. The limited disapproval resulted from West Virginia's reliance on the Clean Air Interstate Rule (CAIR) as a component of certain emissions reduction strategies within West Virginia's RH SIP. West Virginia relied on CAIR as an alternative to Best Available Retrofit Technology (BART) for sulfur dioxide (SO₂) and oxides of nitrogen (NO_x) emissions from EGUs and as a strategy supporting the 2018 reasonable progress visibility improvement goals for the Dolly Sods and Otter Creek Wilderness Areas.

On June 7, 2012, EPA published a final rule noting that states subject to the Cross State Air Pollution Rule (CSAPR) may rely on CSAPR as an alternative to BART for SO₂ and NO_x [77 FR 33642]. This rule also promulgated a federal implementation plan (FIP) for West Virginia, which implemented CSAPR in West Virginia. Therefore, to allow EPA to fully approve West Virginia's RH SIP, West Virginia must amend the RH SIP to note reliance on CSAPR rather than CAIR. The attached *DRAFT West Virginia State Implementation Plan Revision for Regional Haze and Clean Air Act §110(a)(2)(D)(i)(II) for Visibility Protection* performs this function. The draft document revises West Virginia's RH SIP to note reliance on CSAPR to meet BART and reasonable progress requirements for SO₂ and NO_x emissions from EGUs as well as to support the visibility improvement progress goals set for West Virginia's Class I areas.

The RHR at 40 CFR §51.308 requires consultation with the FLMs on plan revisions for Regional Haze. Please consider this letter as the commencement of the required 60-day review period for this draft Regional Haze SIP revision. We would appreciate your formal comments by July 22, 2015, via conventional mail or express courier to the address below or by email to Laura.M.Crowder@wv.govmail. Should you have any questions concerning this SIP revision, you may email me or contact me at (304) 926-0499 ext. 1247.

Laura Mae Crowder

Assistant Director of Planning
WV Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Phone: 304-926-0499 ext. 1247

Fax: 304-926-0479

email: Laura.M.Crowder@wv.gov



west virginia department of environmental protection

Division of Air Quality
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0475
Fax: (304) 926-0479

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

May 22, 2015

via email

Ms. Susan Johnson
Policy, Planning and Permit Review Branch
National Park Service
PO Box 25287
Denver, CO 80235-2017
Susan_Johnson@nps.gov

Ms. Sandra V. Silva
Chief, Air Quality Branch
U.S. Fish and Wildlife Service
7333 W. Jefferson, Suite 375
Lakewood, CO 80235
Sandra_V_Silva@fws.gov

Mr. Clyde N. Thompson
Forest Supervisor, Monongahela National Forest
U.S. Forest Service
200 Sycamore Street
Elkins, WV 26241
CNThompson@fs.fed.us

Mr. Chuck Sams
U.S. Forest Service
1730 Peachtree Road, NW
Atlanta, GA 30309
CSams@fs.fed.us

Re: West Virginia Regional Haze Rule Consultation with Federal Land Managers

Dear Federal Land Managers:

The 1999 Regional Haze Rule (RHR) required states to develop State Implementation Plans (SIPs) to reduce visibility impairment with the express intent that by 2064 the visibility in all Class I areas will be returned to natural conditions. The RHR also requires the state to consult with the Federal Land Managers (FLMs) at least 60 days prior to holding any public hearing on a Regional Haze SIP (RH SIP) or SIP revision [40 CFR §51.308(i)]. We believe that such consultation can be sufficiently accomplished via written communication, including email and/or letter. However, if your agency desires an in person consultation or teleconference, please advise us as soon as practicable, but no later than 30 days after receipt of this letter.

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SIP. West Virginia relied on CAIR as an alternative to Best Available Retrofit Technology (BART) for sulfur dioxide (SO₂) and oxides of nitrogen (NO_x) emissions from EGUs and as a strategy supporting the 2018 reasonable progress visibility improvement goals for the Dolly Sods and Otter Creek Wilderness Areas.

On June 7, 2012, EPA published a final rule noting that states subject to the Cross State Air Pollution Rule (CSAPR) may rely on CSAPR as an alternative to BART for SO₂ and NO_x [77 FR 33642]. This rule also promulgated a federal implementation plan (FIP) for West Virginia, which implemented CSAPR in West Virginia. Therefore, to allow EPA to fully approve West Virginia's RH SIP, West Virginia must amend the RH SIP to note reliance on CSAPR rather than CAIR. The attached *DRAFT West Virginia State Implementation Plan Revision for Regional Haze and Clean Air Act §110(a)(2)(D)(i)(II) for Visibility Protection* performs this function. The draft document revises West Virginia's RH SIP to note reliance on CSAPR to meet BART and reasonable progress requirements for SO₂ and NO_x emissions from EGUs as well as to support the visibility improvement progress goals set for West Virginia's Class I areas.

The RHR at 40 CFR §51.308 requires consultation with the FLMs on plan revisions for Regional Haze. Please consider this letter as the commencement of the required 60-day review period for this draft Regional Haze SIP revision. We would appreciate your formal comments by July 21, 2015, via conventional mail, express courier or by email to Jim Mason at James.L.Mason@wv.gov. Should you have any questions concerning this SIP revision, please contact me at (304) 926-0499 ext. 1247 or Laura.M.Crowder@wv.gov.

Sincerely,

Laura Mae Crowder
Assistant Director of Planning
Division of Air Quality

Attachments

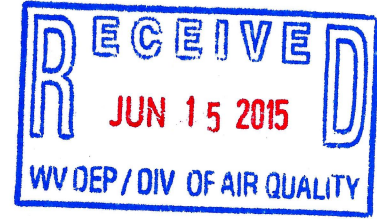
cc: Donna Mastro, Mastro.Donna@epa.gov
Pat Brewer, Patricia.F.Brewer@nps.gov
Tim Allen, Tim_Allen@fws.gov
Bret Anderson, BAAnderson02@fs.fed.us
Jim Renfro, Jim_Renfro@nps.gov
Bill Jackson, Bjackson02@fs.fed.us
Jalyn Cummings, Jalyn_Cummings@nps.gov
Denesia Cheek, Denesia_Cheek@nps.gov
Carol McCoy, Carol_McCoy@nps.gov
Linda Geiser, LGeiser@fs.fed.us
Tamara McCandles, Tamara_McCandles@fws.gov



File Code: 2580

Date: June 12, 2015

Laura Mae Crowder
Assistant Director of Planning, Division of Air Quality
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304



Dear Ms. Crowder:

The USDA Forest Service has completed our review of the document entitled "Draft West Virginia State Implementation Plan Revision for Regional Haze and Clean Air Act §110(a)(2)(D)(i)(II) for Visibility Protection." We appreciated the 60 days to review the document, and the chance to once again work cooperatively with your staff.

I concur with your findings that the NO_x and SO₂ reductions mandated by the Cross State Air Pollution Rule (CSAPR) for West Virginia are at least as stringent as those under the Clean Air Interstate Rule (CAIR) for electrical generating units, and that relying on CSAPR instead of CAIR for emission reductions will not weaken the protections to visibility and visibility improvements contained within the West Virginia Regional Haze State Implementation Plan (RH SIP).

The USDA Forest Service therefore supports the revision to the West Virginia RH SIP to rely on CSAPR to meet the Best Available Retrofit Technology (BART) requirements and reasonable progress for electrical generating units, as well as to support the visibility improvement progress goals for the Class 1 Dolly Sods and Otter Creek Wilderness Areas, in accordance with 40 CFR §51.308(e)(4), with full implementation by 2018, the end of the first Regional Haze implementation period.

We look forward to our continued close cooperation toward the national goal of no "man-made" visibility impairment to the Class I areas in our region by 2064.

Sincerely,


CLYDE THOMPSON
Forest Supervisor

cc: Judith Henry, Chuck Sams, Bill Jackson, Linda Geiser, Bret Anderson, Pat Brewer, Tim Allen



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United States Department of the Interior

NATIONAL PARK SERVICE
Air Resources Division
P.O. Box 25287
Denver, CO 80225-0287

TRANSMITTED VIA ELECTRONIC MAIL - NO HARDCOPY TO FOLLOW

N3615 (2350)

July 21, 2015

Laura Crowder
Assistant Director of Planning
WV Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Laura
Dear ~~Ms. Crowder~~:

Thank you for the opportunity to review and comment on West Virginia's draft revision to the Regional Haze State Implementation Plan (SIP). West Virginia Division of Air Quality (DAQ) is replacing reliance on the Clean Air Interstate Rule with reliance on the Cross State Air Pollution Rule for federally enforceable reductions of sulfur dioxide and nitrogen oxide emissions from electric utilities to meet the requirements for Best Available Retrofit Technology and reasonable progress. WV DAQ has demonstrated that the CSAPR emissions caps are more stringent under CSAPR than under CAIR. Visibility at Shenandoah National Park in Virginia and Dolly Sods Wilderness Area in West Virginia has improved in response to emissions reductions in West Virginia and neighboring states and is already better than the visibility improvement projected to occur by 2018 in the West Virginia Regional Haze SIP. The National Park Service supports West Virginia's proposed SIP revision.

We appreciate the opportunity to work closely West Virginia to improve visibility in our Class I national parks and wilderness areas. If you have questions, please contact me at patricia_f_brewer@nps.gov or 303-969-2153.

Sincerely,

Pat Brewer

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Response to FLM Comments

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Federal Land Manager Consultation

The Regional Haze Rule at 40 CFR §51.308(i)(2) requires that the State “provide the Federal Land Manager with an opportunity for consultation, in person and at least 60 days prior to holding any public hearing on an implementation plan (or plan revision).” In accordance with these requirements, the West Virginia Department of Environmental Protection, Division of Air Quality (WVDAQ) sent a draft of the *West Virginia State Implementation Plan Revision for Regional Haze and Clean Air Act §110(a)(2)(D)(i)(II) for Visibility Protection* to the Federal Land Managers (FLMs) and the United States Environmental Protection Agency (USEPA) on May 22, 2015. The WVDAQ requested that comments be submitted by July 22, 2015. Comments were received from Clyde Thompson, Forest Supervisor of the Monongahela National Forest, and Pat Brewer of the National Park Service.

I. United States Department of Agriculture, Forest Service, Monongahela National Forest

Comment:

The USDA Forest Service has completed our review of the document entitled “Draft West Virginia State Implementation Plan Revision for Regional Haze and Clean Air Act §110(a)(2)(D)(i)(II) for Visibility Protection.” We appreciated the 60 days to review the document, and the chance to once again work cooperatively with your staff.

I concur with your findings that the NO_x and SO₂ reductions mandated by the Cross State Air Pollution Rule (CSAPR) for West Virginia are at least as stringent as those under the Clean Air Interstate Rule (CAIR) for electrical generating units, and that relying on CSAPR instead of CAIR for emission reductions will not weaken the protections to visibility and visibility improvements contained within the West Virginia Regional Haze State Implementation Plan (RH SIP).

The USDA Forest Service therefore supports the revision to the West Virginia RH SIP to rely on CSAPR to meet the Best Available Retrofit Technology (BART) requirements and reasonable progress for electrical generating units, as well as to support the visibility improvement progress goals for the Class 1 Dolly Sods and Otter Creek Wilderness Areas, in accordance with 40 CFR §51.308(e)(4), with full implementation by 2018, the end of the first Regional Haze implementation period.

Response:

No response required.

II. United States Department of the Interior, National Park Service

Comment:

Thank you for the opportunity to review and comment on West Virginia's draft revision to the Regional Haze State Implementation Plan (SIP). West Virginia Division of Air Quality (DAQ) is replacing reliance on the Clean Air Interstate Rule with reliance on the Cross State Air Pollution Rule for federally enforceable reductions of sulfur dioxide and nitrogen oxide emissions from electric utilities to meet the requirements for Best Available Retrofit Technology and reasonable progress. WV DAQ has demonstrated that the CSAPR emissions caps are more stringent under CSAPR than under CAIR. Visibility at Shenandoah National Park in Virginia and Dolly Sods Wilderness Area in West Virginia has improved in response to emissions reductions in West Virginia and neighboring states and is already better than the visibility improvement projected to occur by 2018 in the West Virginia Regional Haze SIP. The National Park Service supports West Virginia's proposed SIP revision.

Response:

No response required.