

February 22, 2011

Glenn Keith
Department of Environmental Protection
Bureau of Waste Prevention
One Winter Street, 7th Floor
Boston, MA 02108

RE: Conservation Law Foundation's Comments on the Draft Regional Haze State Implementation Plan

Conservation Law Foundation ("CLF") appreciates this opportunity to submit comments on the Department of Environmental Protection's ("Department") Draft Regional Haze State Implementation Program. As the Department explains, the Regional Haze Rule was initially promulgated "to protect some of the nation's most treasured public lands," but because haze is caused by the fine particle pollution that causes serious damage to human health, especially the very young and the elderly, this rulemaking presents an opportunity to protect the visibility of protected areas while also protecting the health of Massachusetts residents. Massachusetts is home to 17 major sources that contribute to regional haze in New England primarily through emissions of sulfur dioxide, nitrogen oxides, particulate matter, volatile organic compounds and ammonia. Rather than using this rulemaking to require significant emissions reductions from these sources, the Department has chosen to rely on the reductions that are expected to result from the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone," ("Transport Rule").¹ CLF urges the Department to reconsider this proposal and implement additional requirements for facilities that are covered under the Regional Haze Rule.²

¹ See 75 Fed. Reg. 45210 (August 2, 2010). See Draft Massachusetts Regional Haze State Implementation Plan, 11 (January 11, 2011).

² CLF will not cover every aspect of the proposed rule in its comments here, and reserves the right to raise additional objections in the event that other issues arise which call into question the development of this rule. CLF incorporates into this letter the comments submitted by the EPA on the earlier drafts of this rule. CLF also attaches Exhibit 1, a letter from the National Parks Conservation Association to Gina McCarthy, Assistant Administrator for the Office of Air and Radiation at EPA, and incorporates those comments.

Using the Transport Rule as a Substitute for BART

CLF's primary objection to the proposed rule is the decision to rely upon the proposed Transport Rule as an alternative to implementing source-by-source Best Available Retrofit Technology ("BART") for each of the eligible facilities. As the Department notes, the Transport Rule has not yet been finalized, and there is no guarantee that the reductions proposed in the draft rule will be carried into the final rule. As a result, there is no guarantee that Massachusetts will be able to meet the statutory requirement that it "demonstrat[e] that the emissions trading program or other alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the State." Massachusetts should be required to provide a justification for how its proposal meets each of the obligations set forth at 40 CFR 51.308(e)(2). Further, Massachusetts does not consider whether and to what extent any changes in the final allocations under the Transport Rule would affect regional haze, and in the event that it provides the information necessary to implement this alternative, Massachusetts should provide an analysis of alternative allocations that were submitted during the comment period for the Transport Rule. Finally, Massachusetts based its modeling for the impacts of the Transport Rule on models of the impacts of the now vacated Clean Air Interstate Rule.³ If Massachusetts plans to rely on the Transport Rule, the modeling to justify that decision should be based upon the Transport Rule.

Analyzing the Conversion of Coal and Oil-Fired Units to Natural Gas

In a letter from EPA Region 1 to the Department, Anne Arnold recommended that Massachusetts should consider the use of natural gas as the primary fuel for Mystic Station Unit 7 and Brayton Point Unit 4, and suggested that this measure be considered for any other units that were capable of burning oil or natural gas.⁴ To the extent that oil-fired electric generating units continue to burn oil, EPA recommended that Massachusetts require the use of 0.5% sulfur by weight residual oil as soon as possible. Although Massachusetts includes switching to natural gas as one of the alternative control measures considered in Table 24, there is no description of the analysis. CLF requests that the Department provide the accompanying analysis and explain why this measure was not ultimately recommended.

Meeting the MANE-VU Ask of States Outside MANE-VU

In Section 2.11, Massachusetts asks states outside of the New England region for:

- 90% reduction of SO₂ from top 100 EGUs
- Application of reasonable controls on Non-EGUs

³ See Draft Massachusetts Regional Haze State Implementation Plan, 11.

⁴ Letter from Anne Arnold, Air Quality Planning Unit, EPA Region 1 to Barbara Kwetz, Director, Planning and Evaluation Division, Enclosure, 2 (September 17, 2009).

- Evaluation of other measures from all coal-burning facilities by 2018 and promulgation of NSPS for wood combustion.⁵

However, Massachusetts' proposed rule does not meet these objectives. For example, at Table 25, "Targeted EGU Reductions in Massachusetts", the Department shows that under the Transport Rule, Brayton Point, Mt. Tom, and Salem Harbor Station are expected to exceed the 90% SO₂ reductions that it is asking other states to meet. Massachusetts should take actions consistent with the recommendations it has made for states outside of the MANE-VU region.

Particulate Matter, Ammonia and VOCs

Finally, although the Department explains that particulate matter, ammonia and volatile organic compounds also contribute to haze and are not covered by the proposed Transport Rule, it fails to take any actions to reduce these emissions. Massachusetts should conduct further analysis related to the types of pollution control technologies that are available to reduce these pollutants, provide for additional monitoring of these pollutants, and propose reductions from the facilities that emit these pollutants in more than de minimis amounts. Ammonia is the only pollutant contributing to haze that has risen over the past few years, and the Department needs to conduct further study to determine the cause of this increase.

Conclusion

CLF appreciates the significant resources that the Department has expended on developing this proposal, but respectfully requests that the Department consider the recommendations of CLF before finalizing this rule. This provides an opportunity for Massachusetts to advance not only the protection of visibility in some of the most pristine areas in the country, but also to advance public health in Massachusetts. Thank you for your consideration.

Respectfully submitted,



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⁵ See Draft Massachusetts Regional Haze State Implementation Plan, 15.