



Kathy Kaufman  
EPA/OAQPS  
Mail code C504-02  
Research Triangle Park, NC 27711

August 7, 2006

RE: Draft EPA Headquarters Guidance on Consultation Requirements of the  
Regional Haze Rule

Dear Ms. Kaufman:

We appreciate the opportunity to comment on the draft guidance to regions on the consultation requirements of the Regional Haze Rule. As you know the Western Regional Air Partnership (WRAP) is one of five regional planning organizations established to provide regional consistency among states and tribes that are preparing implementation plans to meet regional haze requirements in Class I areas. The WRAP region contains 118 of the 156 Class I areas nationwide.

Our comments are grouped into a few major areas, as follows:

**We believe the consultation requirements of the Regional Haze rule are being met within the WRAP processes.**

The regional planning envisioned by the regional haze rule requires extensive consultations among all the partners within the regional planning organizations. For 15 years, the WRAP and its predecessor, the Grand Canyon Visibility Transport Commission has embraced this concept fully, with extensive regional consultations involving fifteen states, tribes within those states, federal land managers, EPA headquarters, four EPA regions, local governments, and stakeholders from the environmental and regulated sectors.

All the region-wide technical and policy work products developed by WRAP have been developed with extensive consultation to ensure regional consistency along the way. These consultation events include hundreds of meetings of technical forums and workgroups, policy review committees, and the WRAP board of directors. We also conduct regular conference calls among the participants. All of the WRAP's activities are carried out in an open process with full access to all interested parties. WRAP information and work products are posted on the WRAP web page, available to anyone (please see: [www.wrapair.org](http://www.wrapair.org)).

In addition to the general consultations going on within the WRAP process, there are several examples of interstate consultations on specific Class I areas within the WRAP region, (AZ-NM, OR-ID), and at least one example of state-to-state collaboration across the RPO boundary. (ND-MN and CENRAP)

**We no longer consider additional EPA headquarters guidance on consultation requirements necessary. We believe the additional guidance would create more administrative process and would not improve consultation among states, tribes and FLMs.**

In our February comments on establishing reasonable progress goals, we suggested that additional guidance on consultation would be helpful. Since then, we have had no discussions with OAQPS about reasonable progress goals or consultation. We have moved on and are establishing a consultation protocol within the WRAP process that takes account of existing consultation procedures.

We believe that the progress made and underway within the WRAP assures that the consultation requirements in the regional haze rule will be fully met when the SIPs are submitted. The WRAP has insured that no differentiation in the consultation process exists between tribes that are considered to have status as “treatment in the same manner as states (TAS)”, and those that do not exercise that option, and are considered non-TAS tribes. We suggest that new headquarters guidance over and above the consultation already underway within the WRAP adds more process with little or no enhancement to consultation. We think this will divert the focus of states, tribes and EPA regions from the substantive requirements of the rule and delay getting SIPs in place.

**With respect to the draft HQ draft guidance there are several significant concerns cited below:**

Specific Comments:

- The language creates confusion as to what the guidance would require and what is truly guidance. For example, in the Purpose, section of the cover memorandum, “...to provide a general overview of the collaborative process WE EXPECT States to undertake...,” (emphasis added). The title of the Attachment is “STEPS NEEDED for Interstate Consultation...” (Emphasis added). Our experience has been that this language could be read by EPA regional staff reviewing the SIPs to be a requirement to meet a uniform checklist laid out in the schedule in the Attachment. Some of the items there go beyond what the rule requires. For example, the rule does not require “all parties to sign” any document. The WRAP will continue to document the meetings, forums, and workshops that constitute our consultation process. Requiring signed agreements as an add-on would do nothing to improve or ensure adequate consultation beyond what is already occurring. We would be supportive of the language, “While we recognize that it is not possible to craft a ‘one-size-fits-all’ consultation process that will work for all states and RPOs...,” and deletion of any

language that suggests that any steps outside what is described in the rule are required, expected, or needed for SIP approvability.

- Tribal involvement and collaboration is not addressed in the draft guidance, although it is being addressed within the WRAP RPO. While the rule does not explicitly require consultation between states and tribes, the WRAP charter include tribes as full partners and WRAP tribes participate in our consensus-based decision making process. Full collaboration between states and tribes is a critical component of success in the west. Also, simply saying “States and Tribes,” is not adequate to describe the extent of consultation. There are particular issues within the WRAP region requiring a deliberate effort to ensure effective state and tribal collaboration, including working with tribes on BART sources and oil and gas development on tribal land. The WRAP is launching a special project to ensure early identification of tribal concerns as states go through their individual SIP processes.
- The draft guidance implies separate consultation steps for each Class I area in addition to the consultation within the RPO process. If so, this is an unrealistic expectation given the number of Class I areas within the WRAP region and the variety of contributing source categories. While states should provide sufficient demonstration of consultation, including the 60-day prior notices to the appropriate FLMs, we see no current need to develop a separate consultation plan, with a catalogue of issues to address.
- Roles of state, tribal and federal agencies should be confined to those contained in the rule and not expanded. The rule explicitly requires consultation with Federal Land Management agencies 60 days prior to public hearings on regional haze SIPs in order to ensure FLM comments are considered. Within the WRAP process FLMs are full collaborators in nearly all aspects of regional haze SIP development. For WRAP, the RPO process is working to resolve issues that are important to FLMs as they come up in the technical and policy forums.

Also, with regard to roles of federal agencies, two states in the WRAP region have indicated they are not intending to file regional haze SIPs, leaving the job to their respective EPA regions to develop Federal Implementation Plans. Differentiating between the EPA role as author of FIPs for these two states, and its role as reviewer and approver of SIPs from the neighboring states is another consultation area we will address.

We also do not wish to go into the consultation process assuming there will be “irreconcilable disagreements” to bring forth to EPA. We are not expecting any disagreements that cannot be resolved under the consultation process in place now. In any case, while EPA may approve or disapprove SIPs, the agency should not be inserted into the position of arbiter of disputes as part of a consultation process.

- Discussions of consultation should recognize that five states in the West and the City of Albuquerque have already submitted regional haze plans under section 309. These states have satisfied most of the reasonable progress requirements for the 16 Colorado Plateau Class I areas, and have no need to consult with each other on these Class I areas.

In summary, the WRAP has been implementing the consultation provisions of the rule for a number of years with demonstrated success. Our process ensures the consultation requirements of the regional haze rule will be met when the SIPs are submitted. We believe additional OAQPS guidance to regions at this point is counter-productive, and would prefer not to have additional OAQPS guidance.

We would welcome the opportunity to discuss this further with OAQPS, Regions, FLM's, and other RPOs.

Sincerely,

Patrick Cummins and Lewis McLeod  
WRAP Co-Directors