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RE: COMMENTS OF THE LARGE PUBLIC POWER COUNCIL ON REGIONAL HAZE RULE REVISIONS; ADVANCED NOTICE OF PROPOSED RULEMAKING
Docket ID No. EPA-HQ-OAR-2025-1477

The Large Public Power Council (LPPC) appreciates the opportunity to submit to the U.S. Environmental Protection Agency (EPA or Agency) the following comments on an advanced notice of proposed rulemaking (ANPR) to restructure the current regulatory framework to improve visibility in national parks and wilderness areas under the Regional Haze Program.[1]

The ANPR requests policy and technical input on a wide array of regulatory matters relating to the design and implementation of the Regional Haze Program. These regulatory matters pertain to how the Agency should define the overall objectives of the Regional Haze Program, what are the requirements of states in achieving those regional haze objectives, when states must adopt emissions control measures for remedying visibility impairment, and how those control measures may be implemented by states. In response, LPPC is providing the following comments describing ways for EPA to restructure core elements of the current regulatory framework in a manner that will improve the workability and effectiveness of the Regional Haze Program.

LPPC is an association consisting of the 29 largest, non-federal public power systems in the nation. Together, our members serve 30.5 million American consumers across 22 states and

[1] *Visibility Protection: Regional Haze State Plan Requirements Rule Revision*, 90 Fed. Reg. 47,677 (Oct. 2, 2025).

territories. As not-for-profit utilities owned by and accountable to the communities we serve, our members deliver some of the cleanest, most reliable, most affordable electricity in the nation. LPPC supports strong federal and state action to expand generation technology options, support advanced grid capabilities, and enhance end-user services. Continued federal and state investments in research, development, and demonstration of the full range of technologies are needed to achieve a reliable, clean energy grid.

Many LPPC members are expanding electricity supply to meet soaring demand from data centers and advanced manufacturing, while leading the nation in decarbonizing electric generation and adopting innovative technologies, fuels, and investments in beneficial electrification and grid modernization. However, another critical element of the strategy for LPPC members meeting future electricity demand is to retain and maximize the production of their existing generating facilities. This effort is especially important with respect to LPPC's members' existing dispatchable and most affordable generation, including the fossil fuel-fired electric generating units (EGUs) that are potentially subject to stringent regulation under the Regional Haze Program.

I. OVERVIEW OF THE LPPC COMMENTS

In the ANPR, EPA announced its plan to restructure the current regulatory framework for remedying existing and preventing future visibility impairment in 156 designated national parks and wilderness areas (Class 1 areas) located throughout the country under the Regional Haze Program.[2] The ANPR identifies three general topic areas for which EPA is seeking public input on how EPA might restructure the Regional Haze Program. Those three areas pertain to the following regulatory matters:

- Development and use of new objective metrics, along with the consideration of the four statutory "reasonable progress" factors, as specified in section 169A(g)(1) of the Clean Air Act (CAA), to set visibility improvement goals for each affected Class I area under the Regional Haze Program.
- Development of new criteria that EPA will use for determining whether and when states must revise their state implementation plans (SIPs) for ensuring that reasonable progress is being achieved for remedying visibility at each of those Class I areas.

[2] There are 156 mandatory Class I areas in the United States that are protected under the Regional Haze Rule and Clean Air Act. These areas include certain national parks, wilderness areas, and wildlife refuges that were in existence when the Clean Air Act was amended in 1977 and meet size criteria specified by the Act.

- Revisions to the current requirements that states must include in their SIPs when EPA determines states must adopt regional haze plans for addressing visibility impairment in affected Class I areas during a future implementation period.

The focus of the LPPC comments will be on the key implementation issues relating to each of these three topic areas. For each implementation issue, the discussion below provides the LPPC recommendations that are designed to improve workability and effectiveness of the Regional Haze Program. These recommendations include the following:

- Unit of Measure. The "Uniform Rate of Progress" (URP) glidepath should be used as primary objective numeric metric that states should use for measuring "reasonable progress" under the Regional Haze Program.
- Safe Harbor for Meeting the URP. A regulatory "safe harbor" should be provided to those states whose emissions may be affecting Class I areas (within the state or other states) that are meeting (achieving or doing better than) the URP visibility metric.
- Four-Factor Analysis. The statutory four-factor analysis should apply only when the regulatory safe harbor does not apply.
- Setting Realistic Visibility Goal. The national visibility goal needs to be adjusted to ensure the establishment of a reasonably achievable glidepath for remedying visibility impairment over the long term. Key considerations warranting the adjustment of the current goal include the following:
    - the achievability of a national goal to attain "natural visibility conditions" in all Class I areas without any visibility impairment from man-made emission sources,
    - the reasonableness of the mandatory deadline for states to achieve this national goal by 2064, particularly in light the lack of any statutory provision setting an endpoint for the Regional Haze Program by any particular date, and
    - the need to adjust the mandatory goal to account for circumstances beyond the control of states, such as the international transport of air pollution, natural wildfires, prescribed burns undertaken for natural resource preservation purposes, and major windblown events (*e.g.,* dust storms).

  While some of these adjustments have been partially addressed through informal federal guidance, EPA should expressly incorporate them with much greater specificity by rulemaking into the federal regulations to ensure clarity and durability of those adjustments.
- Restructuring Reasonable Planning Requirements. Full-blown regional haze plans should be required only when substantial additional emission reductions are necessary to achieve reasonable progress goals. By contrast, those states meeting their URP glidepath should only need to confirm the visibility status of affected Class I areas and not be required to

prepare detailed reasonable progress assessments or emissions reduction strategies based on the statutory four-factor analyses. If, for example, one Class I area meets the URP glidepath, then the state need not prepare a full-blown regional haze plan for that area. If all Class I areas in a state and downwind states are meeting their UPR glidepaths, then the state only needs to submit an abbreviated regional haze plan confirming all affected Class I areas are meeting their URP glidepaths and establishing other regulatory and monitoring provisions to ensure that no backsliding could cause or contribute to the area not attaining the URP glidepath during the planning period.

- Key Changes to the Regulatory Framework. The following changes are needed to improve the efficiency and effectiveness of the Regional Haze Program:
    - Extend the deadline for the submission of regional haze plans to fifteen years and consider allowing longer planning periods, as appropriate, consistent with the statute,
    - Clarify the regulations to ensure state primacy to regulate under the Regional Haze Program, such as:
        - Allowing states to make cost-effectiveness determinations based on visibility improvement, and
        - Limiting EPA from second guessing or overriding the states' cost-effectiveness analyses.
    - Enhance the process for coordination among the states on such matters as:
        - The extent to which an upwind state has a regulatory obligation to remedy visibility impairment in a Class I area located in a downwind state, and
        - Setting a minimum source impact for unwind states on Class I areas in downwind states that must exceed 0.2 deciview based on air quality modeling.
    - Revise or repeal regulatory provisions that are no longer necessary for achieving the objectives of the Regional Haze Program. Key regulatory provisions requiring EPA reconsideration include the following:
        - Reasonably Attributable Visibility Impairment requirements,
        - Five-year progress reports, and
        - Federal Land Manager consultations during the states' development of regional haze plans.

II. URP GLIDEPATH SHOULD BE USED AS THE PRIMARY OBJECTIVE NUMERIC METRIC THAT STATES SHOULD USE FOR DEMONSTRATING "REASONABLE PROGRESS" UNDER THE REGIONAL HAZE PROGRAM.

There are several problems with EPA's current approach for determining emissions controls that each state must implement to achieve its "reasonable progress" goals for remedying visibility

impairment in affected Class I areas. First, it requires states to identify those emission control levels *before* the state actually determines what are its "reasonable progress" goals based on actual air quality data or modeling analyses. Second, it requires states to complete upfront a lengthy and resource-intensive process pursuant to which states first must identify those major stationary sources that are significantly contributing to visibility impairment at one or more affected Class I areas based on extensive air quality modelling analyses. For those sources selected for potential regional haze regulation, states then must substantively evaluate and determine potential emissions reductions by considering the following four factors that are set forth in CAA section 169A(g)(1):

- the costs of compliance,
- the time necessary for compliance,
- the energy and non-air quality environmental impacts of compliance, and
- the remaining useful life of any existing source subject to such requirements.

Only once this four-factor analysis has been performed for each selected stationary source on a case-by-case basis and before any assessment has been completed on visibility conditions in affected Class I areas, states must determine what additional emission control measures are necessary to make reasonable progress in reducing visibility-impairing pollutants in Class I areas.

Front-loading the four-factor analysis for determining the necessary control levels before completing a visibility impact assessment is "putting the cart before the horse." It makes no logical sense for states and EPA to make regulatory decisions on the emission control levels that are not informed by actual visibility conditions in the affected Class I area. A better alternative is to set control levels based on the emissions reductions necessary to achieve the reasonable progress goals for remedying visibility impairment in each affected Class I area.

In the ANPR, EPA proposes to take such an approach that would set reasonable progress goals based on the best available air quality and modeling data. Specifically, this data would be used to establish an objective and quantitative metric that states can apply to determine with a high degree of precision the additional visibility improvements that may be necessary to make reasonable progress for each affected Class I area. Notably, EPA and states already have developed such an analytical tool to measure and track the progress that Class I areas are making towards achieving natural (unimpaired visibility) conditions by 2064. Referred to as the URP glidepath, this analytical tool sets a straight-line glidepath trajectory for each Class I area from baseline visibility conditions during the 2000-2004 period to "natural" (unimpaired by man-made emissions and activities) visibility conditions at the targeted end point of the control program in 2064.

States and EPA can effectively and efficiently use the URP glidepath as an objective, numeric benchmark for determining the progress that each Class I area is making towards meeting the national goal for remedying visibility impairment. In effect, the URP glidepath serves several key regulatory functions.

First, the metric informs both the state and EPA with transparency how much progress each Class I area is making towards achieving the national goal at any specific point in time. If the metric is met (visibility impairment is at or below the URP glidepath trajectory at a certain point in time), the Class I area would be deemed to have made "reasonable progress" towards the national goal.

Second, it provides an objective and quantifiable way for states to determine when additional emissions controls may be necessary to ensure that "reasonable progress" is being made during the planning period. In those cases where a Class I area is not meeting the metric, a state would have an objective and quantifiable analytical tool to assess the extent to which the area is not meeting the reasonable progress goals under the Regional Haze Program. Furthermore, it would inform the state that further regulatory actions may need to be taken to achieve additional emissions reductions from selected sources to meet the reasonable progress goal during the planning period.

III. A REGULATORY "SAFE HARBOR" SHOULD BE PROVIDED TO THOSE STATES WHOSE CLASS I AREAS MEET THE URP VISIBILITY METRIC.

For each ten-year implementation period, a state has an obligation to develop a regional haze plan that contains sufficient emissions controls necessary to meet its reasonable progress goals for each affected Class I areas. The URP glidepath—as outlined in the ANPR—provides a precise and quantifiable tracking metric for determining whether that state plan has met the state's reasonable progress requirements for each affected Class I area during that implementation period. If a state's regional haze plan demonstrates that a Class I area is projected to be at or below the URP trajectory for the planning period, this demonstration should create a presumption that the state has, in fact, met its reasonable progress requirements under the Regional Haze Program.

In effect, the presumption would provide states with a regulatory "safe harbor" confirming that the state has satisfied its federal CAA obligations to adopt emissions controls for further improving visibility in Class I areas during the implementation period. In such cases, the safe harbor would provide regulatory certainty that the state has no obligation to undertake a detailed

four-factor analysis to further document that the state is on track in meeting its reasonable progress goals for those Class I areas on track to meet the URP glidepath.

EPA's proposed new policy provides an accurate and objective metric for achieving the fundamental purpose of the Regional Haze Program, which is to ensure that reasonable progress is being made in Class I areas. Both the CAA and EPA's regional haze regulations (codified at 40 C.F.R. §51.308) require consideration of visibility conditions in affected Class I areas when states develop their long-term strategies for achieving reasonable progress. The consideration of four statutory factors—listed in CAA section 169A(g)(1) and implementing regulations at §51.308(f)(2)(i)—is therefore not the entirety of the "reasonable progress" evaluation process required under the Regional Haze Program. Rather, the four-factor analysis is just one regulatory tool that states may use for developing reginal haze plans that address regional haze visibility impairment occurring in affected Class I areas, which is the overall purpose of the program.[3] Consistent with the statute and implementing regulations, EPA's policy requires the consideration of current and projected visibility conditions and comparison of such conditions to the uniform rate of progress. By focusing the Regional Haze Program on visibility conditions being achieved in Class I areas, the EPA policy on use of the URP metric effectively carries out and fulfills the core purpose of the Regional Haze Program.

In addition, EPA has independent authority to adopt a URP progress metric for making reasonable progress determinations. This authority is expressly provided in CAA section 169B(e)(1), which authorizes the Agency to establish by regulation "criteria for measuring reasonable progress towards the national goal." The URP metric not only represents another way to measure reasonable progress. It is arguably the best way to measure such progress by establishing an objective and quantitative metric based on the best available air quality and modeling data.

Furthermore, EPA's policy implements the plain meaning of the relevant CAA provisions and the federal implementing regulations for achieving the core objectives of the Regional Haze Program. It does so first by measuring progress in terms of movement towards a visibility goal: considering the visibility conditions in comparison to the URP over the relevant planning period. And by recognizing that the rate of visibility improvement need only be reasonable, not the maximum achievable, EPA's policy applies the best reading of the statute and regulations. So long as the long-term strategy is meeting or doing better than the URP, a state has satisfied its obligations under the Regional Haze Program.[4]

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[3] CAA Section 169A (g)(1); 40 C.F.R. §51.308(f)(2); *Am. Corn Growers v. EPA*, 291 F.3d 1 (D.C. Cir. 2002).

[4] *North Dakota v. EPA*, 730 F.3d 750, 768 (8th Cir. 2013) (providing that "the CAA requires only that a state establish reasonable progress, not the most reasonable progress").

Notably, EPA has already begun to informally implement a national federal policy to provide the regulatory safe harbor for those states meeting or doing better than the URP metric in several EPA rulemaking actions on regional haze plans adopted by various states.[5] As a general matter, the policy articulated in those EPA actions is that a state has presumptively demonstrated the achievement of its reasonable progress goals for any affected Class I area if visibility conditions for that Class I area are below (*i.e.*, doing better than) the URP set for the area.[6] The practical effect of the URP presumption is that, where the URP is met, EPA will generally accept a four-factor analysis that shows additional controls would be unreasonable (*e.g.*, high cost-per-ton for marginal visibility benefit) as sufficient to approve a state regional haze plan with few or no new measures, whereas if the visibility impacts are above the URP, the same analysis would face a higher burden to justify forgoing available controls.[7]

EPA should codify this national policy in the EPA regulations to ensure the durability and clarity of this important policy.

IV. THE STATUTORY FOUR-FACTOR ANALYSIS SHOULD APPLY ONLY WHEN THE REGULATORY SAFE HARBOR DOES NOT APPLY.

The CAA does not specify how or when the four statutory factors must be taken into consideration when evaluating the measures that states must implement in meeting their "reasonable progress" obligations for each Class I area. To clarify this statutory ambiguity, EPA should provide guidance on when states must perform the four-factor analysis under two basic regulatory scenarios. The first scenario involves situations when the states are meeting their URP

[5] *See e.g.*, Air Plan Approval, West Virginia: Regional Haze Plan for the Second Implementation Period, 90 Fed. Reg. 16,478 (April 18, 2025); South Dakota: Regional Haze Plan for the Second Implementation Period, 90 Fed. Reg. 20,425 (May 14, 2025); Colorado: Regional Haze Plan for the Second Implementation Period, 90 Fed. Reg. 31,926 (July 16, 2025); Iowa: Regional Haze Plan for the Second Implementation Period, 90 Fed. Reg. 37,389 (August 5, 2025).

[6] *See, e.g.*, 90 Fed. Reg. at 16,483 (stating that "where visibility conditions for a Class I area impacted by a State are below the URP and the State has considered the four statutory factors, the State will have presumptively demonstrated reasonable progress"). While meeting URP glidepath presumptively demonstrates the achievement of reasonable progress based on air quality modeling, states also must perform the four-factor evaluation for selected sources even if that evaluation result in no new controls.

[7] In effect, the URP presumption changes the endpoint of that inquiry: when all affected Class I areas are below (doing better than) the URP, the state may use the factor analysis to justify a conclusion that no additional measures are "necessary" for reasonable progress, rather than to justify additional controls needed to move RPGs down to or below the URP.

metric for affected Class I areas, and the second scenario involves those situations when the URP metric is not being met.

In the case of the first scenario (meeting the reasonable progress metric), it is unnecessary and inappropriate for EPA to require a state to complete a lengthy, resource-intensive four-factor analysis on a case-by-case basis for numerous major stationary sources. For the reasons discussed above, qualifying for the regulatory safe harbor would establish a presumption that a state has met its reasonable progress obligations. States in those circumstances, by definition, do not have an obligation to achieve additional emissions controls on sources for further improving visibility in Class I areas during the implementation period. As a result, completing the four-factor analysis would not serve any regulatory function because the objective, numerical metric already would have concretely demonstrated that the state is on track to meeting its regional haze regulatory obligations for affected Class I areas.

By contrast, the obligation for a state to perform the four-factor analysis on select stationary sources should apply only under the second scenario. In this case, one or more Class I areas would not be able to meet the URP metric for demonstrating that the state is achieving reasonable further progress. The failure to meet the URP metric would therefore require the state to conduct a four-factor analysis to determine what further controls may be necessary to assure the Class I areas will achieve the state's reasonable progress goals.

In conclusion, it is appropriate to require states to develop extensive and detailed regional haze plans only when they are not making sufficient reasonable progress towards meeting their URP glidepath for affected Class I areas during the planning period at issue. By contrast, states should not be required to submit such comprehensive regional haze plans if reasonable progress for affected Class I areas is being made by states during planning period.

V. VISIBILITY GOAL NEEDS TO BE ADJUSTED TO ENSURE THE ESTABLISHMENT OF A REASONABLY ACHIEVABLE GLIDEPATH FOR REMEDYING VISIBILITY IMPAIRMENT.

Another important matter pertains to the ultimate goal of the Regional Haze Program and how that goal should be reflected in the regulatory obligations of states to achieve reasonable progress towards remedying visibility impairment in Class I areas. The following discussion addresses three key considerations that EPA should examine to assure the workability and effectiveness of the regional haze regulatory framework. Those considerations pertain to the achievability of a national goal that requires the attainment of "natural visibility conditions" for all Class I areas, the reasonableness of the mandatory deadline for states to achieve this national goal by 2064, and the need to adjust the mandatory goal to account for circumstances beyond the control of states (such as the international transport of air pollution, natural wildfires and prescribed burns, and

major windblown events). Each of these considerations weigh in favor of EPA adjusting the overall visibility goal for the Regional Haze Program. As discussed below, this adjustment is necessary to ensure the establishment of a reasonably achievable glidepath and timeframe for remedying visibility impairment in all affected Class I areas.

A. Statutory Goal to Protect Visibility is Aspirational and Does Not Impose a Mandatory Requirement to Achieve Natural Visibility Conditions.

Federal regulations direct states to adopt and implement a "long-term strategy" that contains the emissions control requirements necessary to attain "natural visibility conditions" at each affected Class I area.[8] Agency guidance provides that those natural visibility conditions shall be calculated "by estimating the decree of visibility impairment" that represents the level of visibility that would exist in absence of anthropogenic (human-caused) visibility impairment.[9] Notably, the requirement to achieve "natural visibility conditions" is effectively a regulatory construct that the Agency itself has acknowledged "has never occurred in modern times and, therefore, has never been directly measured nor could it be directly measured."[10] As a result, natural visibility conditions must be theoretically calculated in accordance with detailed EPA guidance that estimates visibility impairment only due to natural sources of aerosols (such as dust, sea salt, biogenic organic compounds, volcanic emissions, and particulate from natural wildfire events) in each Class I area under natural conditions—with all anthropogenic contributions excluded.[11]

The regulatory mandate to eliminate all man-made impairment in Class I areas is not authorized under the statute. CAA section 169A does not impose an enforceable requirement for states to achieve natural visibility conditions by a specific date. In fact, the statute makes no reference to the term "natural visibility conditions" and does not set any goal or requirement for Class I areas to achieve natural visibility conditions that are free from man-made visibility impairment.

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[8] 40 C.F.R. §51.308(d)(1), (3).

[9] *Id.* at §51.308(d)(2(iii); EPA Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Program (EPA-454/B-03-005) (recognizing "Natural visibility represents the estimated level of visibility that would exist in the absence of human-caused impairment"). In effect, the degree of visibility impairment under natural conditions would be the visibility that would exist with only natural sources of visibility-impairing aerosols, such as Natural visibility represents the estimated level of visibility that would exist in the absence of human-caused impairment. *See* EPA, *Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program* (December 2018) (*EPA Technical Visibility Guidance*), available here.

[10] *EPA Technical Visibility Guidance at 15.*

[11] *Id; EPA Guidance for Estimating Natural Visibility Conditions under the Regional Haze Program* (September 2003) available here.

Instead, the focus of the statute is on implementing *reasonable remedial and preventative measures* for reducing visibility impairment over an indeterminate timeframe. Specifically, CAA section 169A(a)(1) sets "as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility" in Class I areas when that "impairment results from man-made activities." Furthermore, the statute requires states to adopt and implement only those control levels that may be necessary to achieve "reasonable progress" for remedying visibility impairment after considering various counterweighing factors, such as the cost of compliance, the time necessary for compliance, energy impacts, and remaining useful life of any existing source.[12]

Revisions to the federal regulations are necessary to clarify that full restoration to natural visibility conditions (without any man-made impairment) is not required to fulfill the objectives of the Regional Haze Program. This clarification is needed to assure that the national visibility goal does not impose an overly stringent regulatory mandate that is inconsistent with the CAA requirements.

B. The CAA Does Not Set any Deadline to Attain the National Goal of Preventing Future and Remedying Existing Visibility Impairment.

Another regulatory creation of EPA is the deadline by which states must attain the national visibility goal for the Regional Haze Program. The current federal regulations have set an attainment deadline of 2064 for achieving natural visibility conditions,[13] which was not required or authorized by statute. As noted above, CAA section 169A did not establish a deadline or final endpoint for achieving the national visibility goal of preventing future and remedying existing impairment in Class I areas. The Agency itself recognizes that it has the authority "to change the end date to a year other than 2064"[14] and can therefore extend or even eliminate the current 2064 end date for achieving the national visibility goal. According to the ANPR, the 2064 end date was selected for the administrative reason that "it serves as an end point for calculating a 'glidepath' toward natural conditions over a 60-year period."[15]

[12] Notably, the term "toward" used in the statute denotes movement in a direction rather than the attainment or achievement of natural visibility conditions. Similarly, the phrase "reasonable progress" is not a specific standard or condition denoted by a numeric visibility criteria (such as those set for national ambient air quality standards) that must be attained and maintained under CAA section 110.
[13] 40 C.F.R §51.308 (d), (f).
[14] 90 Fed. Reg. at 47,682.
[15] *Id*. at 47,681 footnote 23.

EPA should extend the 2064 for several reasons. First, the 2064 date serves as an aspirational goalpost and planning tool and is not a mandatory or enforceable deadline. As explained in the prior section, this interpretation is confirmed by the plain meaning of the statute and affirmed by federal court decisions. The States therefore should not be penalized if they fail to achieve the final aspirational goal for remedying visibility impairment in Class 1 areas so long as states are making reasonable progress over the life of the Regional Haze Program.

Second, indisputable evidence indicates that states across all regions of the country are achieving substantial emissions reductions and that these reductions fully satisfy the requirement to make reasonable progress to remedy visibility impairment at affected Class I areas. For example, the total annual SO_2 emissions nationwide have been reduced by 14.5 million tons and the total annual NOx emissions nationwide have been reduced by 14.3 million tons between the years 2000 and 2020.[16] Much of these reductions have been achieved by the electric power sector. Annual SO_2 emissions from power plants have fallen by 96 percent between 1995 and 2023, from 11.85 million tons to 0.65 million tons. Similarly, annual NOx emissions from power plants have decreased by 89 percent, from 5.84 million tons to 0.64 million tons.[17] All emissions reductions provide significant visibility benefits for remedying visibility in Class I areas.

These accomplishments therefore demonstrate that not just reasonable progress, but significant progress, is being made toward remedying visibility impairment. Many of the designated Class I areas are already well below their URP glidepath trajectories, indicating that they are moving toward natural conditions more quickly than EPA's regulatory benchmark.[18] Furthermore, the emissions reductions resulting from current power sector trend towards clean energy, when combined with the implementation of several other new EPA control programs, indicate that additional reductions in visibility-impairing air pollutants will likely continue even without requiring additional emissions controls under the visibility program.

C. Adjustments to the National Goal for Exceptional Events.

The national visibility goal under the Regional Haze Rule should be adjusted to exclude visibility impairments caused by wildfires, prescribed burns, international transport, and major wind-blown events because these sources are largely emissions control measures or uncontrollable

[16] U.S. EPA, Regional Haze Early Engagement Webinar (April 2024), available at here.
[17] *See* EPA Release of 2023 Power Plant Emission Data available here. *See also* EPA Report on Power Sector Evolution available here; EPA Power Sector Programs Report available here.
[18] U.S. EPA, *Our Nation's Air: Trends Through 2022*, available at here. EPA estimates that visibility has improved significantly with the average visual range increased from 50 miles to 70 miles in Class I Areas in the East and from 90 miles to 120 miles in the West. U.S. EPA, *Protecting Our Nation's Treasured Vistas*, available here.

emission sources by state and local agencies, and do not reflect anthropogenic emissions within the regulatory reach of the CAA. While generally recognizing that emissions from these uncontrollable events cannot be reasonably managed or prevented, EPA should establish clear rules on how the emissions from these events should be excluded from the regional haze regulations. Most importantly, the Agency should adopt regulatory changes with further federal guidance that—

- Reaffirms and clarifies the unequivocal and automatic exclusions of visibility impairments resulting from prescribed burns and the international transport of air pollution from other countries
- Provides exclusion for wildfires and major windblown events, which are currently not addressed by URP adjustments but instead handled through a data-screening and modeling analyses,
- Adopts updated technical guidance on simple procedures and clear protocols that states can use to exclude those visibility impairment impacts from their reasonable progress goals and determinations.

In addition, EPA should consider moving away from current benchmark based on the "most impaired days" to a revised benchmark based on "median impairment days" (*i.e.*, days with impairment that falls in the 40-60% most impaired days range). Most impaired days are more impacted by extreme events. Visibility impacts from extreme events may be more naturally culled from the historical data by tracking how impairment is improving on the ~50th percentile days.

The adoption of these regulatory changes with accompanying guidance is essential so that states have an effective mechanism to adjust the reasonable progress goals for affected Class I areas. Such guidance will ensure that the visibility goal is reasonably achievable and allow states to remain focused on implementation of feasible, effective emissions control measures from domestic stationary sources.

VI. FULL-BLOWN REGIONAL HAZE PLANS SHOULD BE REQUIRED ONLY WHEN NECESSARY TO ACHIEVE REASONABLE PROGRESS GOALS.

Full-blown regional haze plans require states to perform a comprehensive four-factor analysis (considering cost of compliance, time for compliance, energy/environmental impacts, and remaining useful life of sources) and evaluate long-term control strategies for many sources. These highly technical analyses are resource intensive and require major expenditures of time and extensive efforts by the state and the operators of the affected sources. Requiring these analyses only when additional controls are needed to achieve reasonable progress harnesses

limited state resources for genuinely impactful improvements in visibility. It also avoids unnecessary administrative burden where no further cost-effective control measures exist or where other EPA programs have already delivered major reductions.

By contrast, full-blown regional haze plans are not necessary when the visibility benefit would be minimal, such as when power plants and other major stationary sources within their jurisdictions are already well-controlled or have *de minimis* or limited adverse impacts on visibility. Requiring states to prepare a resource-intensive four-factor analysis and undergo complex planning in this case may yield no new emission reductions and thereby serve no meaningful environmental purpose.

LPPC urges EPA to adopt changes to the current regulatory framework that would exempt states from preparing a full-blown regional haze plan because the states already are fulfilling the core objectives of the Regional Haze Program. Examples of these situations for when an exemption would be appropriate include the following:

States are already meeting their URP glidepath trajectories. In this case, additional emissions controls are not necessary given that the state is already achieving the reasonable progress goals for the specific planning period. Requiring the state to prepare a full-blown regional haze plan would consequently not serve any regulatory purpose given that all affected Class I areas are already projected to achieve reasonable progress for the planning period at issue.

States are not meaningfully contributing to visibility impairment in Class I areas. Another reason for EPA to grant an exemption is that the major sources within the state do not cause or contribute to perceptible visibility impairment (generally measured as being above one "deciview") in Class I areas during the planning period. In such cases, it would be appropriate to relieve the state of its obligations to conduct additional technical analyses of emissions control measures and visibility modeling impacts so long as the state's current EPA-approved emissions control plan is sufficient to achieve reasonable progress goals.

Visibility impacts on Class I areas are de minimis. As visibility conditions at Class I areas continue to improve from reductions in anthropogenic impairment, visibility in Class I areas will approach natural visibility conditions. In such situations, EPA has observed that "visibility impairment could reach a level below which it is not practical or feasible to further control."[19] In the case of those states having such a *de minimis* level of visibility impairment, LPPC believes that it would appropriate for EPA to classify those Class I areas as having fully satisfied visibility improvement obligations under CAA section 169A.

[19] 90 Fed. Reg. at 47,682-83,

For those Class I areas having achieved this status, states would not have any further obligations to adopt additional emission controls to improve visibility at those particular areas. However, states would still be required to perform periodic evaluations of visibility in those Class I areas to ensure visibility has not significantly degraded. In those cases where visibility degradation may be occurring, states would be required to evaluate emissions reduction measures for remedying the impairment through consideration of the four statutory factors.

VII. KEY CHANGES TO THE REGULATORY FRAMEWORK ARE NEEDED TO IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF THE REGIONAL HAZE PROGRAM.

In the ANPR, EPA has requested comments on a wide range of matters relating to the regional haze plans that states must establish to remedy visibility impairment in Class I areas under the Regional Haze Program. The discussion below provides LPPC's recommendations on key changes that EPA should consider making to the program. Although provided at a high level, these recommendations seek to provide the Agency with important policy and technical guidance on how best to improve the overall efficiency and effectiveness of the Regional Haze Program.

A. EPA Should Extend the Deadline for the Submission of State Plans from Ten to Fifteen Years and Consider Allowing Even Longer Planning Periods Consistent with Statute.

LPPC supports EPA's suggested approach of extending the current ten-year planning period to at least fifteen years. An extension is consistent with the statute, which directs states to submit regional haze plans with "a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national [visibility] goal."[20] More importantly, extending the planning cycle to fifteen years would improve program effectiveness, enhance technical assessments, reduce administrative burdens on states, and facilitate integration with other CAA regulatory programs. Examples of these benefits include the following:

Administrative Efficiency. A fifteen-year cycle reduces the resource burden on state agencies, which currently spend substantial time and effort on planning, consultation, and public review every decade. Longer intervals streamline administrative workload, freeing up staff for implementation and technical work rather than repetitive plan revisions.

Improved Modeling and Monitoring. Visibility and air quality measurements, model validation, and emissions inventories are more accurate over longer periods, reducing the influence of

[20] Section 169A(b)(2)(B) of the CAA.

natural variability, episodic events (*e.g.*, wildfires), and short-term meteorology fluctuations on state planning determinations.

Planning for Large Infrastructure Transitions. Major source retirements, fuel switching, and introduction of advanced controls involve long lead times. Allowing 15 years accounts for the actual pace of industry change, avoids unrealistic compliance timetables, and provides room for uncertainty in modeling and forecasting.

Improved Integration with Other CAA Regulatory Programs. Many major federal air regulations (*e.g.*, interstate transport rules and state implementation of new ambient air quality standards) require multi-year implementation cycles. Extending the regional haze planning period aligns with the pace of power sector transitions and other multi-year air quality planning processes, improving coordination and minimizing duplicative regulatory effort.

In addition to extending state planning cycle to fifteen years, EPA should keep flexible the timeframe for submitting updated regional haze plans on an "as needed" basis. As previously discussed, the overall regulatory framework calls upon states to include in their regional haze plans those "emission limits, schedules of compliance, and other measures as may be necessary to make reasonable progress toward meeting the national [visibility] goal."[21] If, for example, the measures incorporated into the states' long-term strategy continue to make reasonable progress towards the national goal, states would not be required to submit an entirely new regional haze plan for the next planning period. Instead, states should only be required to update their long-term strategies when sufficient reasonable progress is not being made towards the national goal, thereby fulfilling Congress's mandate for long-term strategies to contain "the measures as may be necessary" to achieve the national visibility goal.

B. Clarifications to the Regulations Are Needed to Ensure State Primacy to Regulate under the Regional Haze Program.

The CAA gives the states the primary responsibility of developing regional haze plans that establish the emissions control requirements and other measures necessary for achieving the reasonable progress goals under the Regional Haze Program. Under the cooperative-federalism framework established by the CAA for the Regional Haze Program, states are afforded broad discretion in making the critical regulatory determinations on which stationary sources to control as well as the stringency, timing, and implementation of the emissions controls set for those selected sources. EPA deference to states on these regulatory and implementation matters is

[21] Section 169A(b)(2) of the CAA.

appropriate so long as the state's determinations are reasonable and based on well-documented analyses.

The following are two notable examples where rule revisions are especially needed to ensure states are accorded substantial deference in setting emissions limitations for controlling emission sources under the Regional Haze Program. In both examples, this deference is in alignment with cooperative federalism and recognizes state expertise in contextualizing costs for their own Class I areas' needs and characteristics.

One example pertains to deference provided to states on cost-effectiveness based on visibility improvement. As noted above, CAA section 169(g)(1) requires states to consider "the cost of compliance" as one of the four factors in determining reasonable progress under regional haze plans. Given past uncertainties on this matter, EPA should adopt rule changes confirming that states retain discretion to analyze and present costs in the manner most relevant to the program's unique visibility improvement goals. Since regional haze is a visibility improvement program—not a traditional pollutant mass reduction program—metrics directly tied to actual visibility improvement (expressed in terms of dollars per deciview or dollars per inverse megameter) provide a more accurate measure of true progress than the traditional metric expressed in dollars per ton of emissions removed.

Furthermore, EPA should even consider establishing as the preferred cost-effective metrics the metrics based on visibility improvements—either in terms of dollars per deciview or dollars per inverse megameter. States, of course, would also retain the discretion to rely on the traditional cost-effective metric based on dollars per ton of emissions removed if states elect to deviate from the preferred visibility improvement metric.

The second example relates to the placement of a regulatory limitation on the Agency's ability to second guess or override states' cost-effectiveness analyses. There are strong statutory and legal bases for EPA establishing such a limitation in the regulations. First, the Agency has a clear statutory obligation to approve state plans unless the plan is "inadequate" or fails to meet statutory and regulatory criteria.[22] When a state regional haze determination provides rational, adequate documentation for its cost-effectiveness approach, EPA therefore must defer to the state determination, so long as the analysis is reasonably explained and consistent with national guidelines. Furthermore, the courts have repeatedly affirmed that where states have done a reasonable, record-based, and statutorily compliant four-factor analysis—including cost—EPA cannot "second guess" the state's judgments absent clear error or arbitrary decisions.[23]

[22] *See* Section 110(k) of the CAA; Section 169A(b)(2) of the CAA.
[23] *See e.g.*, *American Corn Growers Association v. EPA*, 291 F.3d 1 (D.C. Cir. 2002).

C. EPA Should Revise or Repeal Provisions That Are No Longer Necessary for Achieving the Objectives of the Regional Haze Program.

The ANPR identified many other substantive and process requirements of the Regional Haze Program on which EPA has requested policy and technical input. The following are several key provisions for which LPPC recommends EPA to re-evaluate due to unnecessary administrative and process burdens placed on states without providing any corresponding environmental benefits. In each case, the comments below provide suggested regulatory changes that are intended to improve the effectiveness and workability of the Regional Haze Program.

Reasonably Attributable Visibility Impairment (RAVI) Program. The RAVI program has outlived its purpose and is no longer necessary for addressing visibility impairment in Class I areas. EPA should therefore eliminate the RAVI program for the following reasons.

The objective of the RAVI program was to reduce emissions from one or two large stationary sources that may be causing visibility impairment in Class I areas. The RAVI program was designed decades ago to serve as a placeholder while EPA developed a regional haze regulatory program for remedying visibility based on the collective contribution of all sources within the region. Over the last 25 years, EPA has developed modeling and other technical capabilities that are necessary for assessing the collective visibility impairment contributions across a broad region. Furthermore, the Agency has adopted and is presently implementing the current Regional Haze Program for remedying the impairment in Class I areas. In effect, the Regional Haze Program has established a comprehensive regulatory framework for controlling emissions from all sources within the airshed, including those stationary sources potentially subject to the RAVI program.

The continuation of the RAVI program serves no useful purpose. It is not only duplicative of the Regional Haze Program but also establishes a less efficient and effective way for remedying visibility impairment. For these reasons, LPPC urges EPA to end the RAVI program and shift the entire focus of regulation to the Regional Haze Program.

Five-year progress reports. The current federal regulations require each state to submit progress every five years after the state's submission of its regional haze plan for each ten-year planning period.[24] The purpose of the report is to track each state's progress toward achieving reasonable progress goals for improving visibility at affected Class I areas. Among other things, the reports must evaluate the progress being made on achieving those goals based on emissions trends for

[24] 40 C.F.R. §51.308(g).

visibility-impairing pollutants, visibility monitoring data addressing visibility, and regulatory status of control measures.

EPA should relieve states of the requirement to submit five-year progress reports that are in addition to preparing their periodic regional haze plans. One important reason for eliminating the progress report is that it will remove a redundant regulatory burden. States are already conducting detailed reviews, technical updates, and stakeholder engagement as part of the process for preparing the regional haze plans that states must submit for each ten-year planning period. Requiring separate five-year progress reports imposes duplicative administrative burdens, shifting staff energy from substantive program work to repetitive paperwork and procedural compliance matters that have little environmental benefits.

Federal Land Manager (FLM) Consultations. The CAA requires states to consult with FLMs during the development of their regional haze plans.[25] The federal regulations further provide that the state consultation with each affected FLM must be "in-person" 120-days prior to the public hearings so that the information and recommendations from the FLM "can meaningfully inform" the state's decision in the development of its plan.[26] The effect of the FLM consultation process is to add multiple steps to the state planning process, particularly when the consultation process will not raise any new site-specific information and technical matters but instead focus on generic policy issues that have already been raised during previous FLM consultations.

Strong policy reasons support the streamlining of the FLM consultations to avoid unnecessary delays and limit the focus to new substantive matters of material importance. While the FLM consultations are required by statute, limiting the scope and purpose of the FLM consultation to only those matters involving those state plans that are making new material changes or raising fresh technical issues, would improve the effectiveness of the FLM consultation process. Most importantly, it would enhance efficiency, reduce unnecessary procedural delays, and allow both states and FLMs to focus their efforts toward addressing the most impactful visibility concerns.

D. EPA Should Encourage States to Evaluate Regulatory Options for Controlling Emission from Source Categories Other Than EGUs.

Over the past 25 years, fossil fuel-fired EGUs have been the primary focus of regulation under the Regional Haze Program. With state-of-the-art emissions controls installed on most of EGUs nationwide, it is appropriate to shift the regulatory focus to other sources categories that are not currently controlled under the Regional Haze Program or other major CAA control programs,

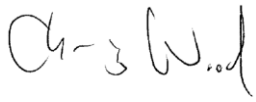
[25] Section 169A(d) of the CAA.
[26] 40 C.F.R. §51.308(i)(2).

such as the new source review permitting process for major stationary sources. Based on the Agency's own collective contribution analytical approach, EPA should encourage states to focus on these other source categories that may be collectively contributing to visibility impairment in Class I areas.

VIII. CONCLUSION

LPPC appreciates the opportunity to submit comments on the regulatory framework to improve visibility in national parks and wilderness areas under the Regional Haze Program. Our comments have focused on providing technical and policy recommendations to restructure the current regulatory framework in a manner that can improve the workability and effectiveness of the Regional Haze Program. Should you have any questions about these comments, please do not hesitate to contact me at (970) 266-7906 or woodc@prpa.org.

Respectfully Submitted,



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