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December 1, 2025

Lee Zeldin, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Advance Notice of Proposed Rulemaking, entitled "Visibility Protection: Regional Haze State Plan Requirements Rule Revision" Docket No. EPA-HQ-OAR-2025-1477.

Administrator Zeldin:

Please find the attached comments filed on behalf of the Midwest Ozone Group ("MOG") regarding an Advance Notice of Proposed Rulemaking by the U.S. Environmental Protection Agency ("EPA") entitled "Visibility Protection: Regional Haze State Plan Requirements Rule Revision" ("ANPRM") published at 90 Fed. Reg. 47677 on October 2, 2025, with a comment deadline of December 1, 2025.

MOG is an affiliation of companies and associations* that draws upon its collective resources to seek solutions to the development of legally and technically sound air quality programs that may impact on their facilities, their employees, their communities, their contractors, and the consumers of their products. MOG's primary efforts are to work with policy makers in evaluating air quality policies by encouraging the use of sound science.

MOG has been actively engaged in a variety of issues and initiatives related to the development and implementation of air quality policy, including the development of transport rules, NAAQS standards, nonattainment designations, petitions under Sections 126, 176A and 184(c) of the Clean Air Act ("CAA"), NAAQS implementation guidance, the development of Good Neighbor State Implementation Plans and related regional haze and climate change issues.

* The members of the Midwest Ozone Group include: Alcoa, Ameren, American Electric Power, American Forest & Paper Association, American Iron and Steel Institute, American Wood Council, Appalachian Region Independent Power Producers Association, Associated Electric Cooperative, Berkshire Hathaway Energy, Big Rivers Electric Corp., Citizens Energy Group, City Water, Light & Power (Springfield IL), Cleveland Cliffs, Council of Industrial Boiler Owners, Duke Energy Corp., East Kentucky Power Cooperative, ExxonMobil, Indiana Energy Association, Indiana-Kentucky Electric Corporation, Indiana Municipal Power Agency, Indiana Utility Group, Hoosier Energy REC, Inc., LGE/ KU, Marathon Petroleum Company, Monogahela Power Company, National Lime Association, North American Stainless, Nucor Corporation, Ohio Utility Group, Ohio Valley Electric Corporation, Olympus Power, Steel Manufacturers Association, and Wabash Valley Power Alliance.

I. Regulatory Background

The Regional Haze Program is an initiative created through Clean Air Act sections 169A and 169B that aims to improve visibility in specific natural and scenic areas. Pursuant to the Regional Haze Program states are required to collaborate with federal agencies to develop and implement State Implementation Plans (“SIPs”) every ten years to make progress towards restoring visibility conditions by reducing particulate matter, nitrogen oxides (“NOx”), sulfur dioxide (“SO₂”), and volatile organic compounds (“VOCs”). These required SIPs include a Uniform Rate of Progress glidepath that indicates the level of improvement needed to meet EPA’s target for restoration of natural visibility of 2064.

As part of the current Administration’s efforts to encourage agencies to identify, review, and rescind regulations that are unlawful, EPA is analyzing the Regional Haze Program to ensure that it is appropriately utilized to restore natural visibility without unnecessarily burdening industrial or power generation facilities for benefits that are aesthetic in nature, rather than those benefits solely association with public health.

II. MOG’s Response to EPA’s Request for Comments and Feedback

A. Progress Metrics

There are certainly several ways to manage what reasonable progress would look like, and though it might be that EPA will ultimately propose to incorporate only one of several options MOG does support EPA’s contemplation of all possible metrics and mechanisms that would change the way states are assessed under the Regional Haze Program.

1. Numeric Threshold

EPA has explained it is acting in response to comments from the 2024 non-regulatory docket, it is considering developing an “objective and numerically-based reasonable progress metric” that might be used to show a state may not need to implement additional controls or submit a SIP so long as reasonable progress towards improved visibility in Class I areas is evident.

MOG supports the development of a numerical threshold to assess state reasonable progress but does not recommend the use of photochemical modeling in determining criteria that will trigger regional haze SIPs. It is challenging to adequately project visibility using photochemical modeling. Moreover, the use of photochemical modeling to project visibility can result in less accurate forecasts than simply estimating future values based on an acceptable percentage of current particulate matter inventory reductions. MOG maintains that any numerical threshold should be based on estimated anthropogenic impacts on an indicator of perceptible impairment, based on ambient data.

2. Modifications To Glidepath

EPA states that it is open to shifting the URP end date, and therefore, shifting the angle of the glidepath. EPA's 2064 target is just that, a target. There are no statutory or regulatory obligations for any state to have restored visibility to natural conditions by this date. It is an arbitrary derived deadline set by EPA—who has historically failed to adequately consider how quickly states must work to achieve it. Extending the glidepath, meaning extending the deadline to reach original visibility, would only be appropriate if clearly necessary to relieve undue pressure on states and industry to invest in controls now or prematurely close. EPA is urged to consider the existing investment by states in the 2064 target as reflected in their plans, prior to making any change in the glidepath target date.

The glidepath should be modified to account for uncontrollable influences that may impact visibility. EPA has acknowledged that international anthropogenic contributions and exceptional events are two factors that are beyond the regulatory control of states and provides mechanisms to exclude events or otherwise build in adjustments to account for impaired days that would skew data, and in turn, progress assessments.

3. Safe Harbor Provision

EPA has noted that in previous public comment periods related to the Regional Haze Program, several commentors have urged the agency to consider implementing a “safe harbor provision.” Such a provision would exempt states from their obligations to submit a SIP that would assess potential additional controls so long as the states continue to make reasonable progress in Class I areas. This grants states more deference over their regional haze initiatives and allows them to work efficiently and effectively in their specific context—without the federal government over stepping.

Naturally, there is an open question about how such a provision could be implemented to ensure that EPA is able to obtain data to track visibility and reasonable progress to inform the application of a safe harbor provision to the appropriate states. MOG supports the use of ambient data collected and use of ambient data and future values with these values based on a projected inventory but not based on photochemical modeling. MOG does urge EPA to develop a safe harbor provision, however. By including a safe harbor provision, EPA would reward states that are actively pursuing goals of increased visibility. It would also prevent overburdening, overregulation, and over control of states that have demonstrated commitment to addressing regional haze issues.

4. De Minimis Thresholds

EPA has also mentioned a de minimis threshold, which MOG believes would complement a safe harbor provision. The development of a de minimis threshold will establish agency discretion to not require a SIP submittal where only trace anthropogenic contributions to Class I areas are present and there is no evidence of visibility degrading or projected to begin degrading.

MOG recognizes that EPA will need to establish that these trace contributions are not considered “impairment,” as they are very small impacts that would not trigger any degradation of visibility. However, this is a critical distinction that should be incorporated into the Regional Haze Program.

5. Four Factor Test Modification to Include Costs, Natural Sources and Exceptional Events

Clean Air Act Section 169A(g)(1) requires that when determining “reasonable progress” toward visibility, states must explicitly address four specific factors when developing their SIPs and adopting certain controls. EPA seeks input regarding whether there are different ways to incorporate the statutory four factor test to determine reasonable progress towards restored visibility.

MOG suggests building out a process for states that might otherwise fall short of demonstrating reasonable progress towards restoring natural visibility to submit additional analyses cognizant of other factors such as costs, natural sources, and exceptional events, will provide ample opportunity for states to show their work is progressing and to demonstrate the set goals under the current rule are too ambitious and do not match the resources currently available. It is well documented that natural sources and exceptional events have a significant impact on visibility and must be taken into consideration when determining “reasonable progress” to avoid arbitrary and capricious regulatory conclusions. MOG supports the alternative set forth by EPA that proposed that the four factors be used as a backstop, to ensure that the Program serves its goal without forcing states to suffer from an unbalanced cost-benefit. For example, states should be encouraged to evaluate the cost-effectiveness potential control measures in a manner that takes into consideration the source and visibility benefit.

A reconfiguration of the four-factor test to apply in this manner will ensure that both the agency and the states are collaborating in a manner that is fully transparent about tackling regional haze. Such modification will also serve to acknowledge there may be a justifiable reason progress has slowed.

6. Changes To Future Visibility Estimation Procedure

While MOG believes that states and EPA need to estimate future visibility, i.e., visibility at the end of the ten year planning period, as part of determining compliance with the URP, it does not believe that photochemical modeling should play a role in estimating future visibility. Rather, MOG suggests that future visibility be estimated based on current emissions and visibility compared proportionally to a percentage reduction of current emissions and then comparing that estimated visibility to the URP glideslope. Estimated visibility below the glideslope would comply with the URP requirements and no further state action would be necessary.

MOG believes that the creation of a reasonable progress metric and additional, complementary assessment measures based on improved data analyses could serve as a cornerstone of a revised Regional Haze Program that addresses state and federal concerns.

B. Criteria That Trigger SIPs

With the inclusion of the provisions described above, it would follow that SIP submittals would occur only where reasonable progress is not evident, rather than requiring costly investment and extensive planning that would result in little more than aesthetic changes so incremental that it may not even be perceivable to the naked eye.

Where submittals (and revisions, as applicable) are provided only on an as-needed basis, states would enjoy more deference and avoid an unbalanced cost-benefit analysis. It would also allow states to have more flexibility to work diligently to implement what would be appropriate in their state-specific Clean Air Act context rather than manage the arbitrary and capricious pressure of a one-size-fits-all federal approach.

Finally, state regional haze programs need to distinguish between SIP provisions derived from Clean Air Act authority and therefore are federally enforceable from state-only provisions that are not federally enforceable.

C. SIP Content Requirements

MOG maintains that reliance on non-binding guidance as if it is regulation is improper, although guidance documents that help states understand the threshold of information necessary for an approvable SIP or SIP revision is critical.

III. Conclusion

For the reasons set forth above, the Midwest Ozone Group urges the U.S. Environmental Protection Agency to carefully assess the Regional Haze Program to ensure that the revised implementation of the Program is both legally and technically sound.

Respectfully submitted,


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