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ME

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ER WILDERNESS  
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ATIONAL PARK  
ME/NB, CANADA

January 31, 2006

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

RE: MANE-VU Comments on the EPA Draft Guidance for Setting Reasonable  
Progress Goals Under the Regional Haze Program

Dear Ms. Kaufman:

The Mid-Atlantic/Northeast Visibility Union (MANE-VU) appreciates the opportunity to submit comments on the EPA "Draft Guidance for Setting Reasonable Progress Goal Under the Regional Haze Program." MANE-VU was formed by the Mid-Atlantic and Northeastern states, tribes and federal agencies to coordinate regional haze planning activities for the region.

MANE-VU acknowledges the time and effort that EPA has put into the development of this guidance document. MANE-VU generally supports the EPA's draft guidance, finding that it provides an appropriate approach that is consistent with the 1999 preamble and rule. The guidance accurately reflects the intent of the rule in providing the States with the greatest level of flexibility with which to meet the requirement of achieving natural conditions in the Class I areas by 2064, and with which to meet the requirement of achieving reasonable progress in the first implementation plan period (2018). MANE-VU has prepared the attached comments for your review and consideration in developing the final guidance document.

Thank you for the opportunity to submit these comments. MANE-VU's looks forward to EPA's response, and, as always, we look forward to working together to achieve our regional haze goals.

Sincerely,

Christopher Recchia

Mid-Atlantic/Northeast States Visibility Union (MANE-VU)  
Comments on EPA's Guidance for Reasonable Progress

On November 28, 2005, EPA distributed its draft guidance document for setting reasonable progress goals under the regional haze program for comment. MANE-VU has carefully reviewed the guidance with its members and submits these comments on their behalf.

General Comments

MANE-VU generally supports the EPA's draft guidance, finding that it provides an appropriate approach that is consistent with the 1999 preamble and rule. The guidance accurately reflects the intent of the rule in providing the States with the greatest level of flexibility with which to meet the requirement of achieving natural conditions in the Class I areas by 2064, and with which to meet the requirement of achieving reasonable progress in the first implementation plan period (2018). The guidance provides that the glide path uniform rate of improvement is the starting point for the State's analysis that, combined with a thorough examination of potential control measures and statutory factors, will result in the determination of the reasonable progress goal for the Class I area.

It is clear from the guidance, consistent with the preamble and the rule, that the glide path uniform rate of improvement and the reasonable progress goal are not one and the same. In fact the guidance points out, as stated in the rule and preamble, that the reasonable progress goal for a State's Class I area may achieve or exceed the level of the glide path uniform rate of improvement, and that, conversely, the reasonable progress goal may not achieve the uniform rate of improvement if the State shows that that level of progress would not be "reasonable" in accordance with its analysis of the statutory factors and its potential control measures.

The EPA guidance provides an appropriate and accurate explanation of the analytical approach for setting the reasonable progress goal for a Class I area as outlined in the rule and in accordance with the preamble language. In 51.308(d)(1)(i)(B), the rule states that "in establishing the reasonable progress goals, the State must consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan." The 1999 rule places emphasis on the glide path uniform rate of improvement analysis as the starting point for the State to consider in determining what constitutes reasonable progress for the Class I area. The rule does not presume that the glide path uniform rate of improvement will be the de facto reasonable progress goal for the Class I area. Thus, this provision in the rule directs the State to consider the uniform rate of improvement and the measures to achieve it serves as the floor, or minimum level of progress and emission controls, from which the State should begin as the basis of its reasonable progress goal analysis, depending upon the outcome of the application of the four factors.

In examining the control measures that will achieve the glide path uniform progress level of improvement for the planning period, the State will need to examine a broad range of potential control strategies. It is not necessarily going to be possible for the State to know, going into the glide path uniform rate of improvement analysis, which control measures, what levels of those measures and how many measures from various source categories are going to (1) achieve a level of emission reductions that will meet the uniform progress level, and (2) meet all four of the factors for determining what is “reasonable.” Therefore the State must begin with the broadest scope of controls so that, in the event one or more are determined not to be reasonable in consideration of the four factors, there will still be a menu of control options from which to choose that may prove reasonable according to the four factors.

In 51.308(d)(1)(ii), the rule states that “if the State establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the State must demonstrate, based on the factors in paragraph (d)(1)(i)(A) of this section, that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the State is reasonable.” In order to make this demonstration the State is going to need to show that the glide path uniform rate of improvement is not reasonable to achieve. The only way for the State to accomplish that demonstration in accordance with the rule is to show that that some or all of the control measures that would be needed to achieve the emission reductions associated with that level of improvement are not reasonable via the analysis of those control measures with the four statutory factors.

This is in essence what EPA is outlining in its guidance as an approach for States to take to ensure that all possible control measures are examined in the context of the four statutory factors. The approach in the guidance provides that the State:

- Identify the broadest possible universe of minor and major sources in all sectors that contribute to impairment, and not eliminate any potential source categories as the State begins its analysis;
- The guidance also recommends, but does not require, that the State identify suites of control strategies of different levels of stringency, such as a maximum control scenario, a medium control scenario, and a minimum control scenario. This is a practical approach, since at this stage of the analysis, the State will not necessarily be able to predict how the control measures in any scenario will fare once the statutory factors are taken into consideration. However, the development of a broad menu of potential control measures with varying levels of stringency will provide the most comprehensive analysis of what is reasonable for the purpose of setting the reasonable progress goal.
- That the factors be applied either on a source-by-source basis or on a category-wide basis, thus giving the State the broadest possible basis for applying the statutory factors in its analysis;
- It is critical that the State perform a comprehensive and thorough analysis of the broadest possible set of control measures in setting its reasonable progress goals.

This is not only necessary in terms of meeting the requirements of the rule, but also in terms of meeting the State's obligations in the consultation process with the other States with Class I areas to whom they may be contributing emissions causing the visibility impairment, and in terms of meeting the obligation to the public to improve visibility in these Class I areas and to protect public health.

## Specific Comments

The following comments provide MANE-VU's input and recommendations on the draft guidance in reference to certain sections of the guidance document.

### Section 1.0 Introduction and Definitions

#### Section 1.1

In reference to selecting the appropriate control measures and evaluating the factors listed in Section 1.1 the document needs to better clarify and clearly state the roles and responsibilities of the States with Class I areas and States without Class I areas in terms of setting the reasonable progress goals. With regard to the scope of the guidance, the document seems to infer that only States with Class I areas set RPG's, consult with others in evaluating the four statutory factors, and include the four factor analysis in their SIP. It would be helpful to understand if States without Class I areas should also be evaluating the four factors in Section 1.1 for their own in-State sources and submitting this evaluation as part of their SIP. Similarly, there is a question as to whether it would be acceptable for States without Class I areas to say in their SIP that they accepted the RPG set by the State with the Class I area, consulted on the four factors in Section 1.1, and accepted the evaluation of the State with the Class I area. In either case, MANE-VU requests clarification in the guidance on these points, as this will assist the States with the Class I areas in the regional planning process or ease the administrative burden on States without Class I areas.

#### Section 1.2

MANE-VU strongly supports the provision in the guidance that an RPG that is equal to or better than conditions based on the uniform rate of progress can be accepted, and that those areas which cannot achieve that level should consider and adopt additional measures that are reasonable. This is consistent with language in the preamble and the rule. Without this provision, States/Tribes may not consider examining all possible control options available to them, especially in light of potential pressures from industry and other sources.

In footnote 1 to this section, EPA says that it expects that it will be necessary for the State to justify a lower RPG "only under unusual circumstances." Since this language in the footnote is preceded by a reference to the application of the four statutory factors, MANE-VU believes that the "unusual circumstances" refer to the notion that an

appropriate application of the statutory factors will not necessarily eliminate all/many of the potential control measures such that a State will be unable to meet/exceed the glide path uniform rate of improvement. In other words, it will not be acceptable to apply the statutory factors in such a way as to deliberately set an RPG that is lower than uniform progress. MANE-VU requests that EPA clarify this footnote to provide this context.

### Section 2.0 Overview of the Process for Developing the RPG

MANE-VU strongly supports the provision in the guidance that an RPG that is equal to or better than conditions based on the uniform rate of progress can be accepted, and that those areas which may not initially achieve that level based on a preliminary set of control strategies should consider and adopt additional measures that are reasonable. This is consistent with language in the preamble and the rule. Without this provision, the State may not examine all possible control options available to them, especially in light of potential pressures from industry and other sources. The four statutory factors provide ample assurance that all possible contingencies will be considered in determining the “reasonableness” of any control measure. The evaluation process outlined in the EPA guidance is iterative, allowing for the State to go back and re-examine measures at the individual source and/or source category levels to determine which of them will provide emission reductions and are reasonable.

MANE-VU notes that the steps EPA has outlined in the guidance do not follow the same order as the steps outlined in the preamble and rule. In the preamble and rule, the second and third steps of the analytical process are to identify the uniform rate of progress necessary to reach natural conditions by 2064, and to identify the amount of progress that would result if the uniform rate of progress were achieved during the first planning period (by 2018), respectively. EPA outlines these steps in section 2.3, and outlines the development of control measures using the statutory factors as the second step in the process. While the steps may appear in a different order in the guidance, the process outlined by EPA in the guidance is nevertheless consistent with what is stated in the preamble and the rule. MANE-VU finds no inconsistency with the process outlined in sections 2.1 to 2.4 of the EPA guidance and the preamble/rule; however, for clarity, MANE-VU suggests that EPA consider reordering the steps in the guidance document.

### Section 3.0 Identifying Key Pollutants and Source Categories for the 1<sup>st</sup> Planning Period

MANE-VU strongly supports the idea of focusing on the highest contributing sources and of addressing significant industrial source categories not subject to BART and non-BART source categories at the same time as BART. This will be a more efficient approach to identifying and analyzing potential control measures over the long term, as well as to assuring that potential co-benefits and dis-benefits are considered in developing a holistic suite of control strategies that will work together to provide the maximum potential benefits for the first planning period as well as over the longer timeframe.

#### Section 4.0 Identify Control Measures for Contributing Source Categories for the First Planning Period

Section 4.0 of the EPA guidance explains the inherent link between the control measures that are identified and evaluated for purposes of determining the reasonable progress goal for a Class I area and the requirements for the long term strategy as specified in the preamble and rule. The long term strategy is the portion of the State's implementation plan that specifically outlines the BART and other control measures that will be implemented by the State to meet the requirements of the regional haze rule. As stated in Section 51.308(d)(3), "the long term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by States having mandatory Class I Federal areas."

The MANE-VU States and Tribes are examining potential emission control strategies in all sectors, including stationary, area and mobile sources, in addition to conducting a thorough analysis of BART sources. Because the MANE-VU States/Tribes cannot pre-determine whether the amount of emission reductions from each of the control strategies that will prove to be reasonable will, together, be enough to achieve uniform progress much less to go beyond it, it is important that States/Tribes identify all possible strategies from all sectors on the assumption that modeling may reveal that more, rather than less, emission reductions are necessary to address the goal identified by the uniform rate of progress. MANE-VU finds it appropriate that the State should not forego an analysis of what degradation is being caused by pollutants from other source categories, or what improvements could be made by controlling them, even if emissions reductions from one source category are projected to be enough to achieve the uniform rate of progress toward natural background in 60 years.

In terms of clarifying the language in this section, it would be helpful for the guidance to clearly articulate the roles and responsibilities of the differing States in identifying the control measures. For example, it would be helpful to know if these provisions apply to all States or only States with Class I areas. Are States with Class I areas supposed to identify control measures first for evaluation and consultation of the four factors by all other States even when the sources or source categories lie outside the State with the Class I area? Or are all States responsible for identifying and evaluating control measures within their own States but expected to work in a collaborative effort to evaluate measures on a regional basis? Obviously, a collaborative effort would be preferred, and it would be helpful for the EPA guidance to provide some insights on how this collaborative effort within and between States, tribes, the federal government, and the Regional Planning Organizations might work, with the potential roles and responsibilities of each clearly articulated. A flow chart of the expected process would also be helpful.

Correspondingly, it would be useful for EPA to provide guidance on how a State with a Class I area may determine the appropriate level of reduction from each State that is contributing to visibility impairment in their Class I area to achieve the reasonable progress goal. In other words, what can or should a State with a Class I area assume when it comes to regional reductions? Should States with Class I areas assume that each

State will be held responsible for reducing its share of visibility impairing pollutants from the sources or source categories identified by the State with the Class I area? If a State with a Class I area needs to determine the costs of a given control strategy (or establish the first RPG), it must first conclude and reach agreement on the States where the controls will apply and the level of expected controls in those other States. Guidance for States on the degree of evaluation needed (in terms of the number of States to be evaluated) to determine the costs of controls is needed. MANE-VU requests that EPA expand upon these points in the guidance.

In addition, because the reasonable progress goal is subject to the consultation process outlined in the preamble and rule, the EPA guidance should clarify what is expected of all States from this process and what would constitute an acceptable SIP in the context of consultation on the RPG from States with and without Class I areas. Presumably, the EPA will be evaluating the State's SIP based upon the record of the consultation process and the evidence presented by each State. To prevent inconsistencies at the end of the SIP submittal process, EPA should be providing guidance on the contents of an acceptable SIP with regard to the consultation process and how EPA will decide on disagreements between States resulting from this process. MANE-VU requests that the guidance document include information on these points.

#### Section 4.2

The EPA guidance does not discuss whether there is an assumption that the "suite of controls" developed by the State will occur over a planning region or over a wide area (e.g.; within northeastern United States). Presumably these controls will be proposed within all States identified by the State with a Class I area as contributing to visibility impairment within the States Class I area. MANE-VU requests that the guidance be clarified and amplified to say that States with a Class I area will be evaluating and developing control measures that may affect sources or source categories in States identified by them as contributing to visibility impairment in their Class I area. The role of a contribution assessment in the identification of sources or source categories should also be included and clarified.

MANE-VU notes that although EPA recommends that States/Tribes identify suites of additional emission control strategies at different stringency levels, the controls within the level of stringency that is adopted should be those that produce visibility improvements equal to or greater than the uniform rate of progress, provided that the four factors are satisfied to demonstrate that those controls are reasonable. Therefore, if the minimum stringency level suite of controls will meet the uniform rate of progress but the medium or maximum stringency suite of controls will provide greater visibility improvement than uniform progress and are reasonable, the more stringent suite of controls that meet the four factors in terms of demonstrating reasonableness should be adopted. MANE-VU strongly supports this provision of the EPA guidance, as the goal of the regional haze rule as expounded in the preamble is to put in place all control measures that are reasonable based upon the statutory factors, and to adopt a greater amount of progress than what would be attributed to the uniform rate of progress over the first

planning period if that proves reasonable. This increases the potential for meeting natural conditions in the Class I area by the 2064 attainment year and also provides for greater public health benefits in the short and long term.

## Section 5.0 Applying Statutory Factors to Potentially Affected Sources

MANE-VU strongly supports the provisions outlined in Section 5.0. These guidelines provide an appropriate level of flexibility to States/Tribes in order to allow them to examine all possible control measures that may be reasonable in accordance with the statutory factors and that may result in the maximum visibility and public health improvement achievable.

### Section 5.1

In section 5.1 the guidance provides an overview of the process of applying the four statutory factors. Step (a) provides that States should “begin with a suite of control strategies (identified as described in section 4) which achieve a rate of progress equal to or greater than the uniform glide path to natural conditions.” MANE-VU agrees that this approach is consistent with the directive in the preamble that provides that States should go beyond the glide path uniform rate of improvement if that proves reasonable to do. In order to determine what is reasonable and whether better than uniform progress is reasonable to achieve, the State must begin the analysis with the broadest possible range of potential control measures and stringencies.

The language in this portion of the EPA guidance seems to suggest that the State will be able to pre-determine the suite of control strategies that will achieve equal to or greater than uniform progress to natural conditions. While the State may be able to make a reasonable estimate regarding a suite of control strategies that would meet or exceed uniform progress, it is more appropriate to provide that the State begin with as broad a scope of control measures as possible to ensure that the entire potential of what may be reasonable is examined and considered. This will also be important in the context of the State consultation process, where it will be necessary to show that all that is reasonable is being done to mitigate emissions that are being contributed to impaired visibility in a Class I area. MANE-VU recommends that this statement in the guidance be revised to read as follows:

“(a) Begin with the broadest suite of control strategies (identified as described in section 4) which may have the potential to achieve a rate of progress equal to or greater than the uniform glide path to natural conditions.”

The additional steps in this section outline the iterative process that the State should use to drill down to the suite of control measures that meet the statutory factors and prove reasonable in terms of setting the reasonable progress goal. The determination of the reasonable progress goal is inherently linked with the control measures analysis; i.e., one cannot be determined without the other. States cannot set a reasonable progress goal that is greater or less than what is reasonable in terms of the BART and other control



measures that can be implemented according to the statutory factors. Therefore by its very nature the determination of the reasonable progress goal is an iterative process.

### Section 5.6.2

In this section, the EPA guidance discusses how to approach the application of the factor regarding the non-air quality related environmental impacts portion of the reasonable progress analysis. MANE-VU supports that this analysis should address impacts other than air quality due to emissions of the pollutant in question and due to the side effects of controlling such pollutants, including co-benefits and dis-benefits of the control measures, as well as the impact of “atmospheric deposition of pollutants to create or exacerbate impacts on land or in water.”

In this section EPA also states that “it is not necessary to perform this analysis of environmental impacts for the entire list of technologies or measures identified (see section 4 above) if you propose to adopt the most stringent alternative.” MANE-VU believes that this statement proposes that if the State is considering the most stringent level of a particular control measure, the State need only perform this analysis for the measure at that level of stringency, and not for the less stringent levels of control that may be possible for that measure. However, if the State is considering the most stringent level of a particular control measure and it determines that that level of stringency is not reasonable in terms of its non-air quality impacts, the State is not precluded from performing this analysis on the same measure at a lower stringency level to determine if, at that level of stringency, the control measure would be reasonable. MANE-VU requests that EPA provide additional language in this section to clarify this provision consistent with what we have provided here in our comments.

### Section 6.0 Determining Uniform Rate of Progress to Natural Background Conditions

In this section of the guidance the EPA provides that the State can use the uniform progress rate to calculate the minimum amount of visibility improvement that should be achieved in the first planning period. As stated earlier in these comments, MANE-VU supports the notion outlined in this guidance, and consistent with the preamble and rule, that the uniform rate of improvement and the measures to achieve it serve as the floor, or minimum level of progress and emission controls, from which the State should begin as the basis of its reasonable progress goal analysis, depending upon the outcome of the application of the four factors.