**August 9, 2016**

Gina McCarthy, Administrator
United States Environmental Protection Agency
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

**Attention: Docket ID No. EPA–HQ–OAR–2015–0531**

**RE: Proposed Rule - Protection of Visibility: Amendments to Requirements for State Plans**

Dear Administrator McCarthy:

The Mid-Atlantic/Northeast Visibility Union (MANE-VU) appreciates the opportunity to comment on the United States Environmental Protection Agency's (EPA) proposed "Protection of Visibility: Amendments to Requirements for State Plans" published in the Federal Register on May 4, 2016 (FR DOC # EPA–HQ–OAR–2015–0531). MANE-VU is comprised of the Mid-Atlantic and Northeast states, tribes, and federal agencies that coordinate regional haze planning activities to meet the requirements of EPA's regional haze rules and to reduce visibility impairment in Class I areas in the Northeast and Mid-Atlantic regions.

## Calculation of Visibility Impairment

### Issue

EPA is proposing a choice of two approaches in selecting the 20% "worst" days from IMPROVE monitoring data to track visibility progress for meeting Reasonable Progress Goals (RPGs) and the uniform rate of progress (URP): 1) select 20% days most impaired by anthropogenic sources in a framework consistent across all states; 2) choose approach 1 or select 20% days with the highest overall haze caused by natural and anthropogenic impacts, which is the approach used under current Rule.

These approaches are being proposed to potentially differentiate trend-distorting natural events like wildfires and dust storms from U.S. and non-U.S. anthropogenic causes when assessing the contributions of existing emissions and potential new emission reduction measures to reasonable progress in reducing visibility impairment.

### Comment 1a

MANE-VU supports, in principle, EPA's proposal to consider only the U.S. anthropogenic emissions in calculating visibility impairment in Class I areas. However, the final rule must clearly state that there will be flexibility in approaches to calculate visibility impairment. In particular, this flexibility must involve the continued use of the current approach for calculating visibility impairment. In areas such as the Northeast and Mid-Atlantic United States that are impacted primarily by anthropogenic sources and very little by wildfires, the difference between the approaches would be minimal at present.

The current approach is also much easier to relate to the public.

Comment 1b

If EPA does allow a state to discount days of natural visibility impairment, the state should be required to report two sets of numbers: the 20% worst days as currently calculated and the 20% worst days for anthropogenic impairment. This would better inform the public of the effects of natural sources on existing visibility levels and does not add an undue burden on the state requesting that select days not be used in the rate of progress determination.

Issue

EPA is proposing rule revisions, which explicitly state that the URP line starts at 2000-2004 for every implementation period: the glidepath or URP line for each Class I area is drawn starting on December 31, 2004, with the starting value of the 2000-2004 baseline visibility conditions for the 20% most impaired days, and ending at the value of natural visibility conditions on December 31, 2064.

Comment 2

MANE-VU is supportive of the proposal to clearly define 2000-2004 as the baseline period for visibility conditions. This affirms the MANE-VU states' interpretation of the rule prior to the proposal. For ease of planning between contributing and Class I states, it is important that the same set of years be adopted for the baseline visibility conditions.

**Alternative Deadlines for SIP Submissions**

Issue

EPA is proposing a one-time change to extend the current deadline for comprehensive revisions of Regional Haze State Implementation Plans (RH SIPs) from July 31, 2018, to July 31, 2021, to accommodate future regulatory changes affecting emission sources, and to allow for the integration of these changes into future SIP revisions.

Comment 3

Most MANE-VU states intend to submit RH SIPs by the 2018 deadline under current regulation. If EPA changes the SIP deadline, it must be in a manner that allows a range of submission deadlines including the original deadline. During the last planning period, states were able to consult with each other despite submitting their SIPs at different times. Such flexibility must be maintained in the current proposal.

**5-Year Progress Reports**

Issue

The current Regional Haze Rule requires a full SIP revision every 10 years and a progress report, also in the form of a SIP revision, at the 5-year midpoint. EPA is proposing to change the content and format requirements of progress reports so that they serve as mid-course reviews instead of being formal SIP revisions. The Agency is also proposing a set of common due dates for future progress reports from all states.

Comment 4a

Given the length of time over which natural conditions are expected to be achieved, periodic reviews are necessary to ensure progress. We agree that the 5-year progress reports need not be in the form of a SIP revision. The 5-year progress report in the form of a simple factual report should be deemed sufficient.

Comment 4b

EPA's proposal to solidify the due dates of the 5-year progress reports will ameliorate the challenges posed by the submissions of SIPs at different times. This will also allow for greater regional coordination in the preparation of technical assessments for the 5-year progress reports.

**Calculating visibility conditions**

Issue

EPA is inviting comment on altering §51.308(g) to clarify the substance of the regional haze progress reports, i.e. the period to be used for calculating current visibility conditions, whether forward-looking quantitative modeling is required in the progress reports to assess if RPGs will be met, and possible timeframes (e.g. 3 months, 9 months or 12 months) for states to incorporate the most recent available data into their progress reports.

Comment 5a

The Rule should allow 12 months as the timeframe necessary for states to incorporate the most recent available data into their progress reports. Although the proposal to no longer require progress reports to be submitted as SIP revisions provides some relief to the administrative process, states are still required to consult with the Federal Land Managers (FLMs) and provide a public comment period. Considering that the FLM review takes at least 60 days prior to a 30-day public comment period (a total of 3 months), the 6-month timeframe is not sufficient to complete the data analysis, draft a proposal, respond to public comment, and submit the progress report by the deadline. To provide flexibility for states to manage their resources, MANE-VU supports a date that is 12 months ahead of the due date of the progress report for determining the data to be used in calculating current visibility conditions.

Comment 5b

Modeling should not be expected for progress reports, especially if states' monitored data shows states are already meeting their progress goals and states have demonstrated that they are achieving the emission reductions included in their SIPs.

**Definition of "Humanly Perceptible"**

Comment 6

The term "humanly perceptible" should not be used in the final rule. The Clean Air Act does not include this term in the requirements for the regional haze program and its addition to the regulation adds complications to evaluating reasonable progress and goes beyond the scope of the Clean Air Act.

It should also be noted in the rule that when multiples sources are being examined that "deciview subtraction" becomes divorced from human perceptibility. Although deciview subtraction may be an appropriate approach when one and only one source is examined, changes in human perceptibility lessen as more and more pollution is added to the system (e.g., if three sources, individually examined, each have 0.5 deciviews of visibility impairment at, for instance, Acadia National Park, which has natural

conditions of 8.78 dv, the three sources in aggregate do not impair visibility by 1.5 deciviews, but only by 1.43 deciviews). Removing the use of the term "humanly perceptible" eliminates this problem since light extinction can be relied on as a metric of comparison.

**Reasonable Attributed Visibility Impairment (RAVI)**

Comment 7

RAVI was originally promulgated as a regulation needed to address the visibility requirements of the 1977 Clean Air Act amendments. The current Clean Air Act in section 169A(b)(2) sets out specific requirement for SIPs to include when regulating emissions that reasonably attributed to those states. 169A(b)(2)(A) outlines the Best Available Retrofit Technology (BART) program and 169A(b)(2)(B) outlines using long term strategies to address reasonable further progress. Although the RAVI program was an important regulation for addressing the requirements of the 1977 Clean Air Act amendments, it has been superseded by other programs and EPA should sunset the RAVI provisions in the final rulemaking.

Many if not all of the "RAVI" sources have already been identified in previous SIP's and FLM's will have plenty of opportunity to raise concerns about any remaining "RAVI" sources during the development of reasonable progress goals for each Class I area. BART sources that relied on CAIR or CSAPR that would be considered "RAVI" most likely will be going through a four-factor analysis in the next periodic SIP revision process. The proposed rule change for FLM consultation "would add a requirement that such consultation occur early enough to allow the state time for full consideration of FLM input" thus eliminating the need for antiquated RAVI requirements.

**New Source Review**

Issue

EPA is proposing several changes to New Source Review in §51.307(a) which includes: "the SIP for every state must require the new source permitting authority to consult with FLMs regarding new source review of any new major stationary source or major modification that would be constructed in an area that is designated attainment or unclassified that may affect visibility in any Class I Federal area."

Comment 8

We agree with EPA on its proposed changes to New Source Review that merge the requirements for assessing visibility impacts into one location of EPA's rules to avoid potential conflict, duplication, and confusion between the Prevention of Significant Deterioration (i.e. attainment areas) and Nonattainment New Source Review (i.e. nonattainment areas) permitting requirements. All new major stationary sources and major modifications of existing sources, located within 100 kilometers (or more in some cases) of a Class I area, must notify the FLMs to determine if a visibility impact assessment or analysis is needed. A single set of rules and guidance documents defining the requirements for assessing visibility impacts from new or modified sources should be used irrespective of the source location, i.e. within an attainment or nonattainment area. An area's attainment or nonattainment status is not a criterion for determining whether a pollutant is causing visibility impairment. Therefore, providing for FLM review of a new or modified major stationary source in an attainment, nonattainment, or unclassified area is appropriate if the source is located within a specified distance from the Class I area.

**Integral Vistas**

Issue

EPA is seeking comment on whether all references to integral vistas should be removed from 40 CFR §51.304 subpart P since few such vistas were properly identified within the statutory time period. Even though it is still unclear on how the existence of an identified integral vista affects obligations on states and sources, EPA is not proposing any clarification at this time.

Comment 9

MANE-VU supports removing integral vistas from subpart P. The list in subpart P is not comprehensive of all the integral vistas in the states and a comprehensive list can be found in the state SIPs. As a result, maintaining two sets of differing lists is counterproductive.

In the absence of a clarification on how the existence of an identified integral vista affects the obligations of states and sources, EPA must remove all references to integral vistas from subpart P.

**Consultation Process with Federal Agencies and States in other regions**

Issue

EPA believes that state consultation with FLMs is a critical part of developing quality SIPs and is proposing edits to §51.308(i)(2): 1) extend the FLM consultation requirements to progress reports that are not SIP revisions; 2) require such consultations to occur early enough to allow the state time for full consideration of FLM input, but no fewer than 60 days prior to a public hearing or other public comment opportunity. A consultation opportunity that takes place no less than 120 days prior to a public hearing or other public comment opportunity would be deemed to have been "early enough."

Comment 10

The MANE-VU states are willing to work with the FLMs and EPA to develop a mutually agreeable streamlined process that will fulfill the requirements of CAA Sec. 169A and yet does not overly add to the burden of developing a SIP. The current consultation requirements between states and FLMs entail lengthy internal legal and executive review processes in addition to the 60 day FLM review of the draft plan. Any revisions identified during the FLM review need to be addressed prior to repeating the state legal and executive reviews all of which could add up to 180 days to the SIP timeline, in addition to EPA review time when the state submits the plan for approval and public comment period.

To facilitate / expedite the consultation process:

- EPA must clearly define the roles and responsibilities of each federal agency involved in the regional haze consultation process and must exercise more oversight of the inter-state consultation process.
- We recommend that EPA consider the regular participation of FLMs in regional planning organizations' efforts (such as in the monthly MANE-VU Technical Support Committee planning calls) as part of any extended FLM consultative review process so as to alleviate the burden imposed on constituent states.

**Reconciling Discrepancies between Contributing and Class I State SIPs**

Issue

EPA is proposing language changes in §51.308(f)(2)(i) - (iv): 1) to clarify that all states, not just those with Class I areas, must consider the four statutory factors and properly document all cost, visibility and other

technical analyses when developing their long-term strategies; 2) to require states to consider the URP and the measures that contributing states are including in their long-term strategies when determining whether the state's own long-term strategy is sufficient to ensure reasonable progress; 3) to clarify the respective obligations of "contributing states" and "states affected by contributing states," during interstate consultation. EPA views this as a clarification of the requirement that states with sources affecting a given Class I area consult on the content of their long-term strategies. Such consultation would be pointless if each state were not meant to consider the other states' planned emission control measures.

Comment 11

We appreciate that EPA is allowing individual states to use the technical analyses developed by a regional planning process in the state's long-term strategy to reduce regional haze per 51.308(f)(2)(iv). We also acknowledge the Agency's willingness to bring greater clarity to the consultation process between states. We expect EPA to actively participate in the establishment of RPGs and reasonable expectations of Class I states related to impacts from contributing states, and in the development of long-term strategies of contributing states. Planning and consultation processes can be further strengthened in the final rule by implementing the following:

- Section §51.308(f)(2)(iv)(C) should specifically require the preparation of a projected future year inventory developed by the regional haze planning process which, with additional controls, would be used to conduct regional photochemical modeling to assess potential future visibility goals.
- We appreciate that EPA is allowing individual states to use technical analyses developed by a regional planning process as part of the long-term strategy for regional haze per 51.308(f)(2)(iv). However, EPA should rephrase the sentence in this proposed section that says the technical analysis needs to be approved by all state participants. One state should not be allowed to hold up the conclusions of a properly performed technical analysis from being used in other states' demonstrations, as this would be to the detriment of a majority of the states. In fact, States should not have to "approve" the analysis at all. Requiring the approval of such technical analyses before inclusion in a SIP essentially cedes state authority to determine what to include it its SIP to other states or the regional body and, therefore, should not be part of EPA regulation.
- If EPA approves a Class I state's SIP that contains RPGs based on four-factor analysis of reasonable controls (including on-the-books and on-the-way measures) in contributing states, we expect the implementation of such controls or other comparable/equivalent measures to be a federal requirement for contributing states that may be otherwise constrained from doing so (e.g. a contributing state may have legislation prohibiting the adoption of measures more stringent than federal requirements). A contributing state's SIP, which does not contain reasonable control measures as identified in the RPGs of an EPA-approved Class I state's SIP, must be disapproved.
- EPA must clearly state how to resolve any disagreements that may arise in the consultation process between Class I states and contributing states, such as when a Class I state's long-term strategies to meet its RPGs do not align with those of contributing states.
- EPA must track and report what was requested by states with Class I areas and what was actually done by the contributing states. A mechanism must be established so that when EPA

proposes action on a contributing state's SIP, it may also provide an analysis and an explanation on how the action meets, or is equivalent to, the reasonable control measures forming the basis of a Class I state's RPGs as approved by EPA.

**Emission Inventory Baseline**

Issue

EPA is proposing to revise §51.308(g)(4) to clarify the obligation of states regarding emissions inventories. According to the current rule text, the analysis must be based on the "most recent updated emissions inventory," with emissions estimates "projected forward as necessary and appropriate to account for emissions changes during the applicable 5-year period." States are otherwise required by 40 CFR part 51, subpart A (Air Emissions Reporting Requirements) to prepare complete emission inventories only for every third calendar year (2011, 2014, etc.) and to submit these inventories to EPA's National Emissions Inventory (NEI). This language seemingly requires a state to "project" the most recent of these inventories to the end of the "applicable 5-year period" whenever that end is not the year of a triennial inventory required by subpart A. For most sectors, the most recently available information will be that for the triennial year of the most recent NEI submission.

Proposed text changes explain clearly the most recent year through which the emissions analysis must be extended, by sector: 1) states would be required to include in their progress reports emissions with respect to all sources and activities up to the triennial year for which information has already been submitted to the NEI; 2) for EGUs, states would need to include data up to the most recent year for which EPA has provided a state-level summary of such EGU-reported data; 3) if emission estimation methods have changed from one reporting year to the next, states need not backcast, i.e., use the newest methods to repeat the estimation of emissions in earlier years, in order to create a consistent trend line over the whole period.

Comment 12

In order to ensure that the consultation process is successful given that states may be submitting RH SIPs on different timelines, and are all contending with resource limitations, EPA must acknowledge and accept 2011 as the base year for modeling for SIPs due during the 2018 – 2021 periods. MANE-VU will be using 2011 base year inventory for all its analyses for the SIPs due during the 2018 – 2021 time period. MANE-VU states are well ahead in their inventory work with 2011 base year and any change now will place undue burden on them.

**Additional Comment:**

EPA's Air Pollution Control Cost Manual

EPA must complete the update of its Air Pollution Control Cost Manual in order for states to successfully conduct the four-factor analyses for 2018 Regional Haze SIPs. The changing costs of controls are a major factor in determining reasonable controls under the four-factor analysis mechanism. The current version of this Manual shows costs that are similar to those used in the 2008 analysis, which could lead to states not considering new reasonable controls for implementation needed for continued improvements in regional haze. On June 14, 2016, EPA published a notice in the Federal Register that "Chapter 1: Selective Non-Catalytic Reduction", and "Chapter 2: Selective Catalytic Reduction" of this Manual have been finalized and are available to the public. MANE-VU appreciates the release of these chapters and

encourages EPA to complete the update to the remainder of this Manual as expeditiously as possible. A successful Regional Haze program is predicated on updating these data.

**Summary**

MANE-VU appreciates the opportunity to comment on EPA's regional haze rule proposal. This proposal is an effective step in improving collaborative efforts of states to reduce impairment from anthropogenic pollution affecting Class I areas during the second regional haze planning period.

Please do not hesitate to contact me at 202-508-3842 or at dfoerter@otcair.org with any questions or comments.

Sincerely,

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Cc: MANE-VU Air Directors