



Connecticut

Delaware

District of Columbia

Maine

Maryland

Massachusetts

New Hampshire

New Jersey

New York

Pennsylvania

Penobscot Nation

Rhode Island

St. Regis Mohawk Tribe

Vermont

August 18, 2025

U.S. Environmental Protection Agency
Attention: Docket ID No. EPA-R05-OAR-2021-0963
Submitted via <https://www.regulations.gov>

To Whom It May Concern:

The Mid-Atlantic/Northeast Visibility Union (MANEVU) is submitting comments to the U.S. Environmental Protection Agency (EPA) on its proposed *Air Plan Approval; Indiana; Regional Haze Plan for the Second Implementation Period* [90 Fed. Reg. 25944 (June 18, 2025)]. These comments, which are detailed in the sections below, are the consensus views of the MANEVU non-federal members and are not intended to represent the views of the Tribal members or federal agency partners in MANEVU.

1. Use of the Uniform Rate of Progress to presumptively demonstrate reasonable progress

Section 169A(g)(1) of the Clean Air Act (CAA) explicitly provides that “in determining reasonable progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements[.]” These are commonly referred to as the “four factors” a state must apply in evaluating potential emission reductions from sources within its borders.¹

In this notice, the EPA is proposing to fully approve Indiana’s SIP, submitted to the EPA on December 29, 2021. In doing so, the EPA states “that so long as the Class I areas impacted by a State are below the [Uniform Rate of Progress] in 2028 and the State considers the four factors, the State will have presumptively demonstrated it has already made reasonable progress for the second planning period for that area.” [90 Fed. Reg., at 25952] It is MANEVU’s position that this policy is not permissible under the statutory language of the Clean Air Act.

In a new policy first announced in the EPA’s proposed approval of West Virginia’s regional haze SIP for the second implementation period [90 Fed. Reg. 16478 (April 18, 2025)], the EPA now invokes an extra-statutory fifth factor, the Uniform Rate of Progress (URP). As framed by the EPA, this fifth

MANEVU Class I Areas

Acadia National Park
Maine

Brigantine Wilderness
New Jersey

Great Gulf Wilderness
New Hampshire

Lye Brook Wilderness
Vermont

Moosehorn Wilderness
Maine

Presidential Range
Dry River Wilderness
New Hampshire

Roosevelt Campobello
International Park
Maine/New Brunswick,
Canada

¹ “A reasonable progress determination is based on applying the four factors in CAA section 169A(g)(1) to sources of visibility-impairing pollutants that the State has selected to assess for controls for the second implementation period.” [90 Fed. Reg., at 25946]

factor can override a statutory four factor analysis finding that while additional requirements placed on visibility-impairing sources constitute “reasonable progress,” these can be dismissed because the impacted Class I area is below the URP.

The CAA statutory text makes no mention of the URP as the deciding factor, or even a factor at all, in determining reasonable progress. This is because the URP is a regulatory, not statutory, construct of EPA’s Regional Haze Rule (RHR) promulgated after CAA section 169A(g)(1) was enacted into law.

Because the URP is a regulatory creation outside the CAA section 169A(g)(1) definition of determining reasonable progress, it is MANEVU’s view that use of the URP as a factor to supersede a statutory four factor analysis is not permissible. CAA section 169A(g)(1) explicitly defines how to determine reasonable progress, and the EPA has received no authority from Congress to impose an additional overriding regulatory criterion that goes beyond the statutory factors [see, e.g., *Loper Bright Enterprises, et al. v. Raimondo, et al.* 603 U.S. 369 (2024)].

MANEVU has submitted to the EPA multiple comments on regional haze SIPs that the URP is not a “safe harbor” from having to further reduce visibility impairing emissions where reasonable. The URP is simply a straight-line tracking metric from the 2000-2004 baseline to the 2064 natural visibility goal set by the EPA in regulation. Use of the URP metric as an extra-textual reference line to not achieve what otherwise would be determined as “reasonable progress” using the four statutory factors is an impermissible reframing of “reasonable progress” from what Congress intended.

Pursuant to the CAA, the RHR at 40 CFR 51.308(d)(1) requires states with mandatory Class I federal areas to establish goals in their implementation plans that provide for improvement in visibility on the most impaired days and ensure no degradation in visibility on the clearest days. These goals are referred to as “reasonable progress goals” or “RPGs.” States with Class I areas establish the RPGs to achieve incremental improvement in visibility to meet the 2064 goal. While a state must consider the URP when establishing the reasonable progress goal, it is merely an “upper bound” measuring stick to indicate whether the rate of improvement remains on track, i.e., is not slower than what the URP represents so as not to delay the attainment of natural conditions by 2064.

The MANEVU members have put in extensive time and effort into developing RPGs during each planning period that fall well below the URP line at Class I areas within the MANEVU region. The RPGs are incorporated into the MANEVU states’ regional haze SIPs, which received extensive input from the public, other states, and the federal land managers, and were ultimately approved by the EPA in its final regional haze SIP decisions. The EPA now invokes the URP as the determinative metric rather than the state-determined RPGs for their Class I areas. While neither the URP nor RPG are themselves enforceable metrics by statute, it seems incongruous that the EPA would opt for a URP untethered from the CAA and ignore the extensive work of the states in determining reasonable progress goals that by the very name seeks to align the statutory requirement of “reasonable progress” into the states’ goals.

2. Comments specific to Indiana's haze SIP submission

In a letter dated November 5, 2021, MANEVU provided comments² to the Indiana Department of Environmental Management (IDEM) during the State's comment period on its draft Regional Haze State Implementation Plan (SIP) for the Second Implementation Period that was made available for review on September 28, 2021. Based on MANEVU's own technical analysis, it developed a "MANEVU Ask" that was sent to Indiana and the other identified states with five requests for consideration during the upwind states' second regional haze SIP planning effort. These "Asks" concerned the following areas:

- Ask #1: EGUs ≥ 25 MW with installed controls, ensure that controls are run year round.
- Ask #2: For emissions sources having a 3.0 Mm^{-1} impact or greater at MANE-VU Class I areas, perform a four-factor analysis.
- Ask #3: Adopt an ultra-low sulfur fuel oil standard.
- Ask #4: For EGUs and other large sources, pursue enforceable mechanisms to lock in lower emission rates.
- Ask #5: Encourage and promote energy efficiency and clean technologies.

IDEM responded to MANEVU's "Asks" in a letter dated December 22, 2021.³ The MANEVU members greatly appreciate the open exchanges we have had with IDEM, and the efforts it has taken to consider and respond to each of MANEVU's Asks.

With regard to the MANEVU "Asks" and IDEM's responses, we list below some additional observations.

Ask #1: IDEM's response stated that several federal measures have specifically targeted NO_x and SO₂ emissions from coal power plants, and cited the Cross State Air Pollution Rule (CSAPR) as one example. MANEVU agrees there are federal regulations that can have co-benefits in reducing visibility-impairing emissions. To the extent, however, that regional programs like CSAPR target NO_x emissions to reduce summertime ozone, those warm weather NO_x reductions do not occur during the days when nitrate particles (formed from NO_x) have their largest impacts on visibility in MANEVU's Class I areas, which is in the winter. MANEVU also notes that the LADCO modeling analysis in Appendix L of Indiana's haze SIP submittal indicates that modeled nitrate levels during winter are underestimated.

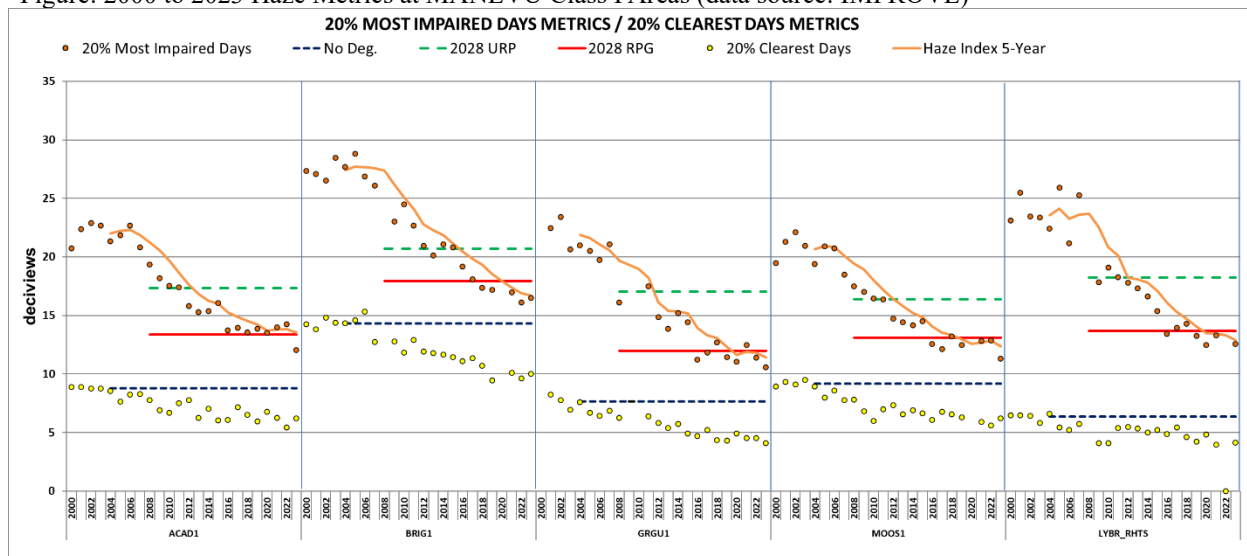
² MANEVU Letter to Jean Boling, Indiana Department of Environmental Management, Office of Air Quality, *Re: Draft Indiana Regional Haze State Implementation Plan for the Second Implementation Period* (November 5, 2021), at https://otcair.org/MANEVU/Upload/Publication/Correspondence/MANE-VU_Comments_IDEM_RH_SIP_20211105.pdf.

³ Letter from Matt Stuckey, Assistant Commissioner, IDEM Office of Air Quality, to MANEVU, *Re: Response to the Mid-Atlantic/Northeast Visibility Union Consultation ASKs for the Regional Haze State Implementation Plan Second Implementation Period* (December 22, 2021), at <https://otcair.org/MANEVU/Upload/Publication/Correspondence/idem-response-to-manevu-tsc-comments-20211222.pdf>.

Ask #2: IDEM presented “URP glidepaths” for the MANEVU Class I areas Brigantine (NJ) and Lye Brook (VT) showing that visibility improvements based on Interagency Monitoring of Protected Visibility Environments (IMPROVE) data from 2014-2018 were well below the URP glidepath and close to modeled 2028 visibility. MANEVU agrees that overall visibility progress since the 2000-2004 baseline period has been impressive. MANEVU’s position, however, is that reference to visibility trends relative to the URP is an impermissible extra-statutory consideration to use as a basis for overriding (or not doing) a statutory four-factor analysis to determine reasonable progress.

MANEVU also notes that visibility trends at Class I areas in the MANEVU region have flattened since about 2015. The figure below shows the flattening trends using IMPROVE data collected through 2023 at five MANEVU Class I areas: Acadia National Park, ME (ACAD1), Brigantine Wilderness Area, NJ (BRIG1), Great Gulf Wilderness Area, NH (GRGU1), Moosehorn Wilderness Area, ME (MOOS1), and Lye Brook Wilderness Area, VT (LYBR_RHTS). A recent study by Nassau and Jaeglé (2025)⁴ analyzed flattening PM_{2.5} levels in the U.S., and found it exists in the central and eastern U.S. even when accounting for wildfire smoke. To ensure that reasonable progress goals (RPGs) for future SIP implementation periods are met, and to support the goal of natural conditions by 2064, additional measures to reinvigorate robust visibility improvements (i.e., robust downward trends in haze metrics) are needed.

Figure: 2000 to 2023 Haze Metrics at MANEVU Class I Areas (data source: IMPROVE)



Ask #4: IDEM states that the time and resources needed for a new rulemaking to make emission reductions enforceable were not warranted in light of URP trends in Class I areas, ongoing federal and state measures, and operational changes at power plants that are anticipated to achieve further reductions. MANEVU recognizes the challenges of undertaking state

⁴ Nassau, R., & Jaeglé, L. (2025). Understanding the recent stagnation in PM_{2.5} concentrations across the United States: A seasonal composition perspective. *Journal of Geophysical Research: Atmospheres*, 130, e2024JD042401. <https://doi.org/10.1029/2024JD042401>.

rulemakings, and considered these in making its “Asks,” including similar Asks it made of its own members.⁵ The MANEVU states have responded to their own Asks by undertaking these regulatory challenges, such as adopting state-wide low sulfur fuel oil rules.

MANEVU also restates its position that reference to URP trends is not a permissible basis for determining reasonable progress under the statutory text of the CAA, and that visibility trends since about 2015 are flattening.

With regard to anticipated operational changes, such as power plant retirements, that are not made enforceable in SIP measures, MANEVU notes that a number of coal-fired power plants previously announcing planned retirements are now delaying or withdrawing those plans.⁶

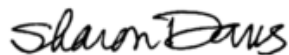
Finally, while MANEVU recognizes the co-benefits of federal measures in helping achieve visibility progress, those measures are not currently resulting in visibility improvements as demonstrated in the flattening improvement trends. Furthermore, the EPA is now undertaking a major effort to scale back or eliminate national measures,⁷ therefore throwing into doubt any future improvements those types of measures may have provided.

Summary

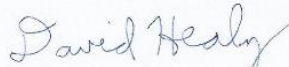
For the above reasons, MANEVU disagrees with the EPA’s use of the URP as a factor in finding a state has “presumptively demonstrated” reasonable progress in its haze SIP. MANEVU also disagrees with Indiana’s similar use of the URP.

Thank you for your consideration of MANEVU’s comments.

Sincerely,



Sharon Davis, New Jersey Department of Environmental Protection



David Healy, New Hampshire Department of Environmental Services
Co-Chairs, MANEVU Technical Support Committee (TSC)

cc: MANEVU Directors
MANEVU TSC

⁵ Statement of the MANE-VU States Concerning a Course of Action within MANE-VU toward Assuring Reasonable Progress for the Second Regional Haze Implementation Period (2018-2028), August 25, 2017, at <https://otcair.org/MANEVU/Upload/Publication/Formal%20Actions/MANE-VU%20Intra-Regional%20Ask%20Final%208-25-2017.pdf>.

⁶ See New York Times, *Where Coal Is Retiring, and Hanging On, in the U.S.*, February 6, 2025, at <https://www.nytimes.com/interactive/2025/02/06/climate/coal-plants-retirement.html>.

⁷ U.S. EPA, *EPA Launches Biggest Deregulatory Action in U.S. History*, March 12, 2025, at <https://www.epa.gov/newsreleases/epa-launches-biggest-deregulatory-action-us-history>.