



Connecticut

Delaware

District of Columbia

Maine

Maryland

Massachusetts

New Hampshire

New Jersey

New York

Pennsylvania

Penobscot Nation

Rhode Island

St. Regis Mohawk Tribe

Vermont

July 18, 2025

U.S. Environmental Protection Agency
Attention: Docket ID No. EPA-R05-OAR-2021-0577
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; Michigan; Second Period Regional Haze Plan* [90 Fed. Reg. 25975 (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 Michigan’s SIP, submitted to the EPA on August 23, 2021, and supplemented on April 3, 2025. In doing so, the EPA states “so long as the Class I areas impacted by a State are below the [Uniform Rate of Progress] and the State considers the four factors, the State will have presumptively demonstrated it has already made reasonable progress for the second implementation period for that area.” [90 Fed. Reg., at 25980] 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 factor can override a statutory four factor analysis finding that while additional requirements placed on visibility-impairing sources constitute

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 25977]

“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 Michigan’s haze SIP submission

MANEVU developed “Asks” for upwind states contributing to visibility impairment in MANEVU’s Class I areas, including for emission sources in Michigan. These were referenced in comments to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) dated

June 28, 2021.² On p. 26 (Section G.1) of Michigan’s regional haze SIP submittal, it states, “Monitoring data to date and the 2028 modeling results continue to show visibility impacts at Michigan’s two Class 1 areas remain well below the glidepath. This is the basis for EGLE determining no additional controls are reasonable on the affected sources for this 2018-2028 time period.” Based on this statement, MANEVU to the best of its knowledge believes EGLE has not fully responded to all the elements of the MANEVU Ask.

As MANEVU comments above, use of the glidepath (i.e., URP) as a metric to determine what is needed to make reasonable progress is a non-statutory factor Congress did not include in defining “determining reasonable progress” under CAA section 169A(g)(1). As such, MANEVU disagrees that Michigan’s haze SIP submittal satisfies the statutory requirements for determining reasonable progress.

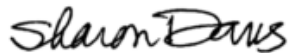
MANEVU recognizes that the St. Clair Power Plant shut down in 2022 as prospectively described in the EGLE submittal. If permanent and enforceable, this would address part of MANEVU’s Ask to Michigan. MANEVU, however, does not have information to know if the shutdown is permanent and enforceable.

Summary

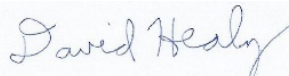
For the above reasons, MANEVU disagrees with the EPA’s use of the URP as a factor in finding a state has “presumptively demonstrated” reasonable progress in its haze SIP. Furthermore, Michigan’s reliance in its haze SIP submittal on the [URP] glidepath as the basis for determining additional controls are not reasonable does not meet the CAA statutory requirements for determining reasonable progress.

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

² MANEVU Letter to Robert Irvine, Michigan Department of Environment, Great Lakes, and Energy, Air Quality Division, *Re: Proposed SIP Revision: State Implementation Plan Submittal for Regional Haze Second Planning Period* (June 28, 2021), at https://otcair.org/MANEVU/Upload/Publication/Correspondence/MI_RH_SIP_MANEVU_Comments_final_20210628.pdf.