



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 23, 2025

U.S Environmental Protection Agency

Attention: Docket ID No. EPA-R06-OAR-2025-0197

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; Texas and Oklahoma; Texas Regional Haze Plans for the First and Second Implementation Periods and Five-Year Progress Report; Oklahoma Regional Haze Plan for the First Implementation Period* [90 Fed. Reg. 22166 (May 23, 2025)]. These comments 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.

MANEVU's comments are specific to the EPA's proposed approval of Texas' regional haze State Implementation Plan (SIP) for the Second Implementation Period. The EPA is proposing to fully approve Texas' SIP, submitted to the EPA on July 20, 2021, and to withdraw its 2024 Partial Approval and Partial Disapproval of Texas's Second Planning Period SIP. In doing so, "the EPA notes that it is the Agency's policy, as announced in the EPA's recent proposed approval of the West Virginia Regional Haze SIP, that where visibility conditions for a Class I area impacted by a State are projected to be below the [Uniform Rate of Progress] in 2028, and the State has considered the four statutory factors, the State has presumptively demonstrated reasonable progress for the second implementation period for that area." [90 Fed. Reg., at 22185] It is MANEVU's position that this policy is not permissible under the statutory language of the Clean Air Act.

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.<sup>1</sup>

### 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

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<sup>1</sup> "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 22168]

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 “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 override 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.

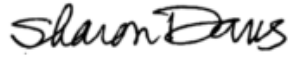
Pursuant to the CAA, the RHR at 40 CFR 51.308(d)(1) requires states with mandatory Class I federal areas to establish goals in their implementation plans that provide for improvement in visibility on the most impaired days and ensure no degradation in visibility on the clearest days. These goals are 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.

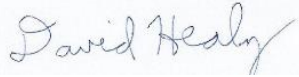
For these reasons, MANEVU disagrees with the EPA’s use of the URP as a factor in finding a state has “presumptively demonstrated” reasonable progress in its haze SIP.

Thank you for your consideration of MANEVU's comments.

Sincerely,

A handwritten signature in black ink that reads "Sharon Davis".

Sharon Davis, New Jersey Department of Environmental Protection

A handwritten signature in blue ink that reads "David Healy".

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

cc: MANEVU Directors  
MANEVU TSC