



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Regional Haze/Advance Notice of Proposed Rulemaking: Environmental Organizations' Comments on EPA Solicitation of Potential Regulatory Changes to Implementation/Structure

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The Environmental Defense Fund and eleven other environmental organizations filed December 1st Comments addressing an October 2nd Advanced Notice of Proposed Rulemaking ("ANPR") issued by EPA styled:

Visibility Protection: Regional Haze State Plan Requirements Rule Revision, Advanced Notice of Proposed Rulemaking, 90 Fed. Reg. 47677.

The other environmental organizations joining the Comments include:

- The National Parks Conservation Association
- Sierra Club
- Clean Air Task Force
- Earthjustice
- Montana Environmental Information Center
- Utah Physicians for a Healthy Environment
- Coalition to Protect America's National Parks
- Southern Environmental Law Center
- Environmental Law and Policy Center
- Center for Biological Diversity
- Healthy Environment Alliance of Utah

(Collectively, "EDF").

The federal Regional Haze program is driven by 169A of the Clean Air Act.

Section 169A requires that certain sources contributing to visibility impairment install BART. The states are responsible for determining the appropriate BART controls for certain stationary sources. EPA reviews the State's Implementation Plan ("SIP") submissions for consistency with the relevant regulation.

The Regional Haze Rule requires that states submit SIPs to manage visibility impairing air pollutants affecting mandatory Class I Federal areas to demonstrate progress toward the national visibility goal under the Clean Air Act.

EPA stated in the ANPR that it was seeking input regarding how it can “meaningfully revise the RHR to streamline regulatory requirements impacting states’ visibility improvement obligations under the CAA.”

Specifically, EPA solicits comment and information on the following topics:

- Topic 1: Development and implementation of a reasonable progress metric and consideration of the four statutory factors.
- Topic 2: Development of criteria used to determine when a SIP revision is necessary.
- Topic 3: Determining SIP content requirements.

EDF states by way of introduction that:

... Rather than off-ramping states from the Regional Haze Program, EPA should aim to provide more clarity and certainty for states in developing their regional haze SIPs.

They further argue that although the Regional Haze Program has achieved significant reductions in haze-forming pollution assisting visibility conditions in Class I areas, none have achieved natural visibility conditions.

EDF’s comments address each of EPA’s topics from the ANPR and in addition provide:

- Context and background information on the Clean Air Act Regional Haze Program.
- Explanations of how the environmental organizations believe EPA’s alternative approaches under all three topics are aimed at letting states avoid the Clean Air Act’s requirement to develop and implement Regional Haze SIP’s and therefore violate the plain language of the Clean Air Act.
- Arguments that EPA’s alternative approaches under each topic are unlawful.
- What the environmental organizations describe as various technical issues with some of the alternative approaches raised under each of the three topics.
- The environmental organizations’ prior recommendations on how they believe EPA can improve the Regional Haze Rule.

A copy of the Comments can be found [here](#).