Regional Haze/Advance Notice of Proposed Rulemaking: National Rural Electric Cooperative Association Comments on EPA's Solicitation of Potential Regulatory Changes to Implementation/Structure

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The National Rural Electric Cooperative Association ("NRECA") filed December 1st comments addressing the October 2nd advance notice of proposed rulemaking ("ANPR") issued by the United States Environmental Protection Agency ("EPA") styled:

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

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 comments 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.

NRECA describes itself as the national trade association representing nearly 900 not-for-profit electric cooperatives and other rural electric utilities. The electric cooperatives are stated to power 1 in 8 Americans and serve as engines of economic development for 42 million people across 56% of the nation's landscape.

NRECA states by way of introduction that it supports EPA's efforts to "streamline and clarify certain requirements governing the RHR going forward."

The organization argues that:

- Planning requirements of the Regional Haze Rule have often been unclear for states and affected sources.
- Implementation of this program has at times been highly burdensome and resource intensive.
- Lack of clarity for states and sources can lead to NRECA's members facing the prospect of unnecessary and costly requirements.
- Unnecessary and costly requirements can jeopardize NRECA's ability to provide affordable and reliable electricity to their consumer-members.

NRECA states that it is supportive of EPA's:

- Inclination to establish a reasonable progress metric.
- Assuming it accounts for the four statutory factors and preserves states' decision-making authority.
- To use such a metric to create a safe harbor that prevents the imposition of unnecessary control measures.
- Approaches that would establish clearly defined circumstances in which states would not need to submit state implementation plans (SIPs) and clarify the content of such SIPs that would further reduce burden on states and sources.

The remainder of the comments provide an overview of NRECA's members and more detailed responses to each of the three topics.

A copy of the NRECA comments can be found here.