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August 9, 2016

U.S. Environmental Protection Agency
Air and Radiation Docket and Information Center
Docket ID No. EPA-HQ-OAR-2015-0531
Mail Code: 2822T
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OAR-2015-0531 – Protection of Visibility: Comments on EPA's Proposed Amendments to the Regional Haze Rule, 81 FR 26942, May 4, 2016

On behalf of the Commonwealth of Kentucky, the Kentucky Division for Air Quality respectfully submits the following comments in response to the March 4, 2016, *Federal Register* that solicited comments on EPA's proposed amendments to the regional haze rule. The Division supports EPA efforts to provide states with additional flexibility for regional haze state implementation plan (SIP) development.

Additionally, the Division appreciates the opportunity to comment on the proposed amendments and requests EPA's consideration of our comments. If you have any questions regarding the Division's comments, please contact Mr. Martin Luther, Environmental Scientist V in the Program Planning and Administration Branch, at (502) 782-6690 or martin.luther@ky.gov.

Sincerely,

A handwritten signature in black ink that reads "Sean Alteri".

Sean Alteri
Director

SA/mrl

Kentucky Division for Air Quality
Comments on the U.S. Environmental Protection Agency's (EPA's)
Proposed Amendments to the Regional Haze Rule
(81 FR 26942, May 4, 2016)

- **Section IV. A. (81 FR 26953-26954) Reasonable Progress Requirements - Obligation to conduct a detailed reasonable progress assessment regardless of progress that has been made in comparison to the ultimate uniform rate of progress deciview glide path:** *The current text of § 51.308(d)(1)(ii) discusses required actions of the state containing the Class I area should it set a reasonable progress goal that provides for a slower rate of visibility improvement than that needed to attain natural conditions by 2064 (i.e., a reasonable progress goal for the 20 percent most impaired days that is above the URP line). ...To clarify how a state must show that being on the URP line is not reasonable in its SIP for the second and subsequent regional haze implementation periods, the EPA is proposing in § 51.308(f)(3)(ii)(A) that if the reasonable progress goal is above the URP line, the state must demonstrate, based on the four reasonable progress factors, that there are no additional emission reduction measures for anthropogenic sources or groups of sources in the state that may be reasonably anticipated to contribute to visibility impairment that would be reasonable to include in the long-term strategy. States must provide a robust demonstration, including documenting the criteria used to determine which sources or groups of sources were evaluated and how the four factors were taken into consideration in selecting the measures for inclusion in its long-term strategy.*

The Kentucky Division for Air Quality (Division) suggests that EPA include additional language in these sections of the rule to address the requirements for reasonable progress and long term strategies within regional haze SIPs when Class I area visibility projections are improving at a rate equal to or better than (i.e., below) the uniform rate of progress (URP) metric. While the proposed language in 40 CFR 51.308(f)(3)(ii)A provides detail describing requirements for states in which a Class I area has reasonable progress goals that are slower than (i.e., above) the URP, there does not appear to be a corresponding paragraph dealing with requirements for states where the reasonable progress goals are equal to the URP or better than the URP. For a state that has resulting visibility projections that are equal to or better than the prescribed URP with the application of existing on-the-books (OTB) and/or known on-the-way (OTW) control measures, EPA should indicate in the rule that a four-factor analysis should not be required in that round of regional haze SIP development.

- **Section IV. B. (81 FR 26954) Emission Inventories:** *The proposed changes also would provide flexibility in the base inventory year the state chooses to use, as the EPA has always intended if there is good reason to use another inventory year.*

Due to the resource intensive task of utilizing a new emissions inventory (e.g., 2014 NEI), the Division requests that EPA specifically indicate within the regulation that states may select the 2011 base year inventory for use in SIPs due in the 2018/2021 timeframe

to alleviate the necessity for a lengthy discussion within these SIPs as to why a different NEI inventory was not chosen as the base year.

- **Section IV. C. (81 FR 26955) Changes to Definitions and Terminology Related to How Days Are Selected for Tracking Progress:** *The EPA seeks comment also on a second, alternative proposal under which the final rule would allow each state with a Class I area to choose between using the revised approach described earlier (using the 20 percent most anthropogenically impaired days) and using the 20 percent haziest days (whether dominated by natural or anthropogenic impacts) to track visibility as all states with Class I areas did in the first regional haze SIPs.*

The Division fully supports the second, alternative proposal that would allow each state the flexibility to choose which approach to use in their state's Regional Haze SIP. The alternative proposal would allow eastern states to continue to track progress for the 20% least impaired and the 20% most impaired visibility days as done for the first regional haze implementation period and as such not have to redo previous regional haze SIP work. Therefore, the Division strongly recommends that EPA adopt the alternative proposal that provides choice and flexibility to the states.

- **Section IV. F. (81 FR 26960) Clarification of and Changes to the Required Content of Progress Reports – IMPROVE data:**...*The proposed text makes clear that the period for calculating current visibility conditions is the most recent rolling 5-year period for which IMPROVE data are available as of a date 6 months preceding the required date of the progress report. ...The EPA invites comment on other specific timeframes as the amount of time necessary for states to incorporate the most recent available data into their progress reports, including 3 months, 9 months and 12 months.*

Pursuant to EPA's request for comment, the Division recommends that the timeframe sufficient for states to incorporate available IMPROVE data into their progress reports be set at a minimum of 12 months prior to the due date of the progress report.

- **Section IV. F. (81 FR 26960) Clarification of and Changes to the Required Content of Progress Reports – NEI data:** *States would be required to include in their progress reports emissions with respect to all sources and activities up to the triennial year for which information has already been submitted to the NEI.*

The Division recommends that EPA clarify this requirement by indicating that progress reports must contain emissions from the NEI published no later than 12 months prior to the due date of the progress report. Absent such a clause in the regulation, states would need to redo analytical work and write ups to include recently published NEI data.

- **Section IV. G. (81 FR 26961) Changes to Reasonably Attributable Visibility Impairment (RAVI) Provisions - Expansion of RAVI requirements to all states:** *The EPA is proposing to amend § 51.300, Purpose and applicability, to expand the reasonably attributable visibility impairment requirements to all states and territories...*

Given that the Regional Haze Program developed under the 1999 Regional Haze Rule has improved visibility in most Class I areas, the 1980 RAVI requirements appear to be unnecessary and duplicative at this time. Therefore, the Division requests that EPA reconsider their approach to and need for the existing RAVI requirements or their expansion.

- **Section IV. I. (81 FR 26965) Changes to FLM Consultation Requirements for Progress Reports:** *...The EPA is proposing to extend the FLM consultation requirements of § 51.308(i)(2) to progress reports that are not SIP revisions...*

The Division does not agree that progress reports should undergo formal FLM consultation and recommends that EPA reevaluate the need for FLM consultation on progress reports. For the same reason that EPA believes that these documents need not be SIP revisions, consultation with FLMs, and in particular a consultation period that is 120 days in length, is not necessary for effective visibility planning. A 30 day public comment period for any person or stakeholder interested in reviewing and commenting on the progress reports should be a sufficient time for review of the data that states compile from other, public sources and include in progress reports.

- **Section IV. I. (81 FR 26965) Changes to FLM Consultation Requirements for Regional Haze SIPs:** *This proposed rule change would add a requirement that such consultation occur early enough to allow the state time for full consideration of FLM input, but no fewer than 60 days prior to a public hearing or other public comment opportunity. A consultation opportunity that takes place no less than 120 days prior to a public hearing or other public comment opportunity would be deemed to have been "early enough."*

The Division does not support this proposal which appears in effect to extend the consultation period to 120 days. The Division has found that the current 60 day consultation period with FLMs for comprehensive regional haze SIPs to be more than adequate and requests that the 60 day period remain unchanged.

- **Section IV. J. (81 FR 26965) Extension of Next Regional Haze State Implementation Plan (SIP) Revision Deadline From 2018 to 2021:** *The EPA is proposing to amend § 51.308(f) to move the compliance deadline for the submission of the next periodic comprehensive SIP revisions from July 31, 2018, to July 31, 2021.*

The Division fully supports this proposed change. The proposed extension will allow states to coordinate regional haze planning with other regulatory programs, including but not limited to the Mercury and Air Toxics Standards, the 2010 SO₂ National Ambient Air Quality Standards, and the Tier 3 Vehicle Emission and Fuel Standards Regulation.

- **Section IV. K. (81 FR 26965) Changes to Scheduling of Regional Haze Progress Reports:** *The EPA is proposing to amend 40 CFR 51.308 (g) and (h) such that second*

and subsequent progress reports would be due by January 31, 2025, July 31, 2033, and every 10 years thereafter, placing one progress report mid-way between the due dates for periodic comprehensive SIP revisions.

The Division fully supports this proposed change. This proposed change will prevent overlap with timeframes for comprehensive regional haze SIP submittals.

- **Section IV. L. (81 FR 26966) Changes to the Requirement that Regional Haze Progress Reports Be SIP Revisions:** *EPA is proposing to amend 40 CFR 51.308(g) regarding the requirements for the form of progress reports. We are proposing that progress reports need not be in the form of SIP revisions, but that states must consult with FLMs and obtain public comment on their progress reports before submission to the EPA.*

The Division fully supports this proposed change which should lessen the complexity of the progress report development process.