

July 11, 2023

The Honorable Michael Regan  
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Office of the Administrator  
Mail Code 1101A  
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**Re: Assuring Clean Air in our Parks and Communities through Strong Implementation of the Regional Haze Rule**

Dear Administrator Regan:

On behalf of our millions of members and supporters nationwide, we, the undersigned executives of 47 organizations, urge you to act promptly and strongly on the Regional Haze Round 2 State Implementation Plans that have been submitted to the Environmental Protection Agency. Time is of the essence and many states have proposed haze plans that lack the scale of pollution reducing measures that our national parks, wilderness areas and communities require to make reasonable progress toward clear skies. This Regional Haze planning period is an essential moment and prime opportunity for you to establish a legacy of clean air across the country.

The Regional Haze Rule (RHR) is a time-tested, effective program that has resulted in real, measurable, and noticeable improvements in national park and wilderness area visibility and air quality over the past decade. Yet parks and communities – from the Everglades to Mount Rainier and Acadia to Joshua Tree – are still plagued with haze pollution that threatens public health, nature and visibility. While the primary goal of the RHR program is the reduction of visibility impairing pollution in Class I areas, through successful implementation in the past, we have achieved important co-benefits that have also cut climate-polluting greenhouse gases.

Many of our organizations have engaged in nearly all of the state public comment periods to date, bringing our advocates to public hearings and submitting testimony, detailed comments and expert reports to state agencies. Many of our organizations have met with you and your staff across the country throughout the Round 2 planning process over the last few years. Through our advocacy, we've continued to stress the urgency of action and the consistency with which EPA must address the flaws in state haze plans. We'd like to further draw your attention to the near universal weaknesses we've found in state haze plans, outlined below.

***Source selection by states excluded significant emissions and sources from consideration in their analyses.***

Unfortunately, many states did not comprehensively identify sources for analysis as required; they circumvented this requirement through a variety of ways. Numerous states set

their analysis thresholds too high to sufficiently capture sources and emissions and exempted sources that have a planned or stated retirement date that is not federally enforceable. Many relied on previous “Best Available Retrofit Technology” (BART) determinations or other Clean Air regulations that address possible control options. Still others ignored non-dominant pollutants by disregarding nitrogen oxides emissions and focusing just on sulfur dioxide emissions or vice versa and nearly all states ignored area and mobile sources. Lastly, in many instances, states determined that a recent permit to construct exempts a source from analysis.

The ways in which states ignored sources that have the potential to pollute our parks, wilderness areas and communities, are unacceptable. EPA must hold states accountable for thorough and comprehensive analyses and ensure that their worst sources of haze pollution harming Class I areas are included. States must not be allowed to skip emission cuts or enforceable requirements from sources known to negatively affect air quality in our national parks and wilderness areas.

***States did not justify their dismissal of emission reduction measures in satisfactory ways.***

As stated above, states circumvented requirements and did not justify their dismissal of emission reduction measures. Many states relied on industry analyses of sources instead of conducting their own independent reviews. States also relied on industry arguments that sources were ‘effectively controlled’ when in most cases they should have required control upgrades. Finally, we believe that most states should have established cost-effectiveness thresholds that were higher than the first round of haze planning, which would have allowed for the requirement of controls that are already required at similar sources.

Moreover, while the central goal of the RHR is in fact improvement in visibility, the analyses required under the four statutory factors does not actually include consideration of emissions as they would directly affect visibility benefits. Inappropriately, most states relied on visibility benefits they deemed arbitrarily as ‘too small’ as a means to exclude emission reducing measures from sources that otherwise might satisfy the four statutory factors. Therefore, EPA must also ensure that states are not dismissing any possible emission reduction measures that do in fact satisfy the required comprehensive analyses.

***Legal requirements of the RHR were not followed.***

Most states completely ignored many of the legal requirements of the Regional Haze Rule. They conducted incomplete or flawed interstate consultation, ignored the comments and recommendations of Federal Land Managers (FLMs), delayed requirements until Round 3 planning, relied on the Uniform Rate of Progress glidepath as a ‘safe harbor’, and ignored requirements for additional controls for nearly all sources. The EPA has already determined, through the July 2021 Clarification Memo<sup>1</sup>, that the above activities are not allowable.

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<sup>1</sup> Memorandum from Peter Tsirigotis, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors Regions 1-10, “Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period,” (July 9, 2021), <https://www.epa.gov/visibility/clarifications-regarding-regional-haze-state-implementation-planssecond-implementation>. (“July 2021 Clarification Memo”).

Consultation with neighboring states and FLMs is vital, and required, to ensure the proper expertise and mutually beneficial information is shared. We are particularly concerned that states did not meaningfully consider FLM recommendations—FLMs manage the very places that the Regional Haze Rule is required to protect. FLMs have unique expertise in the resources they protect at each of their sites whether they are Class I areas or not. Many states did not respect the input of their federal partners and we urge the EPA to ensure state haze plans meet the requirement of meaningful consultation. The EPA must correct the states' misplaced reliance on the glidepath to avoid controls for sources. Finally, we strongly encourage the EPA to ensure that state plans include emission control requirements on sources.

***States failed to take into consideration the Administration's priorities, specifically environmental justice.***

The Biden Administration has made it clear that environmental justice is a very high priority for all government agencies. Moreover, you have also identified environmental justice as a very high priority for the EPA. We are disappointed that most states did not take environmental justice considerations into account when writing their haze plans. The National Parks Conservation Association (NPCA) [has identified that more than 50% of the sources of concern](#)<sup>2</sup> for regional haze across the country are located in environmental justice communities (as identified by people of color, low income, and unemployment rate percentiles as well as communities with high ozone and particulate matter environmental justice indexes). We strongly urge the EPA to review the environmental justice considerations for each state and ensure the state haze plans reflect these considerations.

Finally, the Biden Administration has also made climate change and the shift to carbon-free, renewable energy a high priority. Many of the state plans do not reflect this priority and it's EPA's job to ensure the country's priorities are carried forward through the programs in which the EPA has authority to regulate. Many state haze plans relied on the transition from coal to natural gas, which is still highly problematic as gas still emits haze pollution and greenhouse gases that drive climate change. Moreover, many states did not consider the impacts of oil and gas area sources or mobile sources—the cumulative effect of all these sources is significant pollution that harms our most vulnerable communities as well as Class I areas. We urge the EPA to ensure state haze plans point our country towards a healthier and more just climate future.

The EPA is required to ensure that states' Round 2 regional haze plans meet all legal requirements of the Clean Air Act and deliver reasonable progress on the goal of restoring natural visibility conditions to national parks and wilderness areas across the country. We believe that many of the currently proposed state haze plans do not accomplish this goal, and we urge EPA to disapprove the inadequate plans to ensure our parks and communities are afforded clean air and clear views in the future. **We urge EPA to act as swiftly as possible to respond to the 37 state plans currently submitted to the agency.** This opportunity through the RHR only comes once in a decade, we cannot miss this critical chance to clear our air.

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<sup>2</sup> See letter to Principal Deputy Assistant Administrator Joseph Goffman from National Parks Conservation Association, Sierra Club and Earthjustice: <https://drive.google.com/file/d/1JARfTEoDYM-Fd8PQThrjW8V1o16g1TNo/view>.

Sincerely,

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