will allow them to print the 4''x 6'' IMpb compliant shipping label. Metered customers should contact their postage meter provider for assistance with printing postage labels with tracking, signature confirmation, or insurance. Mailers using Label 888 for Marketing Mail parcels or Heavy Printed Matter parcels will need to use alternative methods for tracking. Additional information on postage and tracking options for both metered and commercial customers can be found at *https://www.usps.com/business/postage-options.htm.*

The Postal Service will no longer print these labels for distribution and as the non-RSS offices are upgraded will no longer apply the labels. However, the Postal Service will allow customers to use their existing stock until January 31, 2028.

The Postal Service is proposing to implement this change effective January 17, 2027.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

503 Extra Services

* * * * *

7.0 USPS Tracking

7.1 Basic Standards

* * * * *

7.1.2 Electronic Option USPS Tracking for USPS Marketing Mail and Heavy Printed Matter Parcels

[Revise the third sentence in 7.1.2 to read as follows:]

* * * Electronic-option USPS Tracking may be purchased for USPS Marketing Mail parcels and Heavy Printed Matter parcels by mailers using privately printed forms or labels and who establish an electronic link with the USPS to exchange acceptance and delivery data. * * *

* * * * *

7.2 Labels

7.2.1 Types of Labels

* * * Mailers not printing their own privately printed labels must use one of the label options as follows:

[Revise the text of item a to read as follows:]

a. A mailer may present mailpieces to a retail employee at a Post Office, station, or branch and the retail associate will affix a USPS Tracking label to the item.

7.2.2 Label Placement

[Revise the first sentence of 7.2.2 to read as follows:]

The barcoded label section of a USPS Tracking label must be placed completely on the address side of the mailpiece, above the delivery address and to the right of the return address, or to the left of the delivery address. * * *

8.0 USPS Signature Services

8.1 Basic Standards

* * * * *

8.1.2 Standards for Signature Confirmation

For Signature Confirmation with Media Mail, Library Mail, Bound Printed Matter, or Parcel Select pieces meeting the physical standards under 201.7.0, the parcel must meet these additional requirements:

* * * * *

d. Mailers must use one of the following labels:

* * * * *

[Delete item d3 in its entirety and renumber item d4 as d3.]

* * * * *

[Revise the first sentence of item e to read as follows:]

e. The barcoded label section of PS Form 153 (see ''Forms'' at *https://pe.usps.com/*) must be placed completely on the address side, either above the delivery address and to the right of the return address, or to the left of the delivery address. * * *

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–18371 Filed 9–8–26; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2023–0495; FRL–13512–01–R8]

Air Plan Approval; Reconsideration and Repeal of Air Plan Partial Approval and Partial Disapproval of North Dakota's Regional Haze State Implementation Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reconsideration of final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is proposing to repeal a final rule published in the **Federal Register** on December 2, 2024, partially approving and partially disapproving North Dakota's 2022 regional haze State Implementation Plan (SIP) submission for the second implementation period. As a result, the EPA is proposing to approve the portions of North Dakota's 2022 SIP submission for the second implementation period that were disapproved in the EPA's 2024 partial approval/partial disapproval. In the December 2024 final rule, the EPA determined that North Dakota submitted a regional haze SIP that did not meet all the statutory and regulatory requirements for the regional haze second implementation period. On January 31, 2025, and February 6, 2025, EPA received petitions for reconsideration from the State of North Dakota, Basin Electric Power Cooperative, Lignite Energy Council (LEC), Rainbow Energy Center, and the Coyote Station Co-Owners. On January 31, 2025, the State of North Dakota, Montana-Dakota Utilities Company, NACCO Natural Resources Corporation, Basin Electric Power Cooperative, Rainbow Energy Center, and Lignite Energy Center filed petitions for review in the Eighth Circuit Court of Appeals. EPA granted reconsideration on April 30, 2025, sending letters to the State of North Dakota, Basin Electric, LEC, Rainbow Energy Center, and Coyote

Station Co-Owners. The petitions for review were held in abeyance by the Eighth Circuit on June 4, 2025 pending the administrative reconsideration process.

DATES: Comments must be received on or before October 9, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2024–0001 to the Federal Rulemaking Portal: *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov*. The EPA may publish any comment received to the Agency's public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *https://www.regulations.gov*. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: For information about this proposed rule, contact Chelsea Cancino, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, telephone number: (303) 312–6276, email address: *cancino.chelsea@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

NH_3 Ammonia
BART Best Available Retrofit Technology
BLM Bureau of Land Management
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
CSU Colorado State University
EPA U.S. Environmental Protection Agency
FIP Federal Implementation Plan
FLM Federal Land Manager
FR Federal Register
IMPROVE Interagency Monitoring of Protected Visual Environments
LB Pound
LEC Lignite Energy Council
LNC3+ Combination of closed coupled overfired air, separated overfired air, and low NO_X burners in conjunction with DryFining and expanded overfire air registers.
MACT Maximum Achievable Control Technology
MMBtu Million British Thermal Units
NAAQS National Ambient Air Quality Standards
NO_X Nitrogen Oxides
NPS National Park Service
OMB Office of Management and Budget
PM Particulate Matter
$PM_{2.5}$ Fine Particulate Matter
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RHR Regional Haze Rule
RPGs Reasonable Progress Goals
RPOs Regional Planning Organizations
SIP State Implementation Plan
SO2 Sulfur Dioxide
TSS Technical Support System
UMRA Unfunded Mandates Reform Act
URP Uniform Rate of Progress
USFS United States Forest Service
USFWS United States Fish and Wildlife Service
VOC Volatile Organic Compounds
WRAP Western Regional Air Partnership

Table of Contents

I. What action is the EPA proposing?

In this action, after granting reconsideration of the prior action, the EPA is proposing full approval of North Dakota's 2022 SIP submission, including the requirements relating to 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress (URP); 40 CFR 51.308(f)(2): long-term strategy; 40 CFR 51.308(f)(3): reasonable progress goals; 40 CFR 51.308(f)(4): reasonably attributable visibility impairment; 40 CFR 51.308(f)(5) and 40 CFR 51.308(g): progress report requirements; 40 CFR 51.308(f)(6): monitoring strategy and other implementation plan requirements; and 40 CFR 51.308(i): Federal Land Manager (FLM) consultation.

On August 11, 2022, the North Dakota Department of Environmental Quality submitted a revision to its SIP to address regional haze for the second implementation period. North Dakota made this SIP submission to satisfy the requirements of the Clean Air Act's (CAA's) regional haze program under CAA sections 169A and 169B and 40 Code of **Federal Register** (CFR) 51.308(f). In 2024, the EPA proposed and finalized partial approval and partial disapproval of North Dakota's 2022 submission.

In the 2024 final action, the EPA disapproved 40 CFR 51.308(f)(2): long-term strategy; 40 CFR 51.308(f)(3): reasonable progress goals; and 40 CFR 51.308(i): Federal Land Manager (FLM) consultation.

The EPA seeks comments on all of the proposed actions described in this preamble, including with respect to the EPA's statutory authority to reconsider and repeal the December 2, 2024 final rule and any changes in interpretation and policy relevant thereto. Because this action would, if finalized, relieve certain obligations for the State of North Dakota, the EPA does not believe there are reasonable and cognizable reliance interests that would be adversely impacted by finalizing this action as proposed. Nevertheless, the EPA seeks comment on whether such reliance interests exist, and if so, how the EPA should consider them in taking any final action on this preamble.

II. Background

A detailed history and background of the regional haze program is provided in

the EPA's prior proposed action for Idaho.[1] For additional background on the 2017 Regional Haze Rule (RHR) revisions, refer to section III. Overview of Visibility Protection Statutory Authority, Regulation, and Implementation of ''Protection of Visibility: Amendments to Requirements for State Plans'' of the 2017 RHR.[2] The following is an abbreviated history and background of the regional haze program and 2017 Regional Haze Rule as it applies to the current action.

A. History of the Regional Haze Program

In the 1977 CAA amendments, Congress created a program for protecting visibility in the nation's mandatory Class I Federal areas, which include certain national parks and wilderness areas.[3] [4] The CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' [5]

Regional haze is visibility impairment that is produced by a multitude of anthropogenic sources and activities that are located across a broad geographic area and that emit pollutants that impair visibility. Visibility impairing pollutants include fine and coarse particulate matter (PM) (*e.g.,* sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (*e.g.,* sulfur dioxide (SO_2), nitrogen oxides (NO_X), and, in some cases, volatile organic compounds (VOC) and ammonia (NH_3)). Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the perception of clarity and color, as well as visible distance.[6]

To address regional haze visibility impairment, the 1999 RHR established an iterative planning process that requires States containing Class I areas and States containing sources whose emissions ''may reasonably be anticipated to cause or contribute to any impairment of visibility'' in a Class I area in another State to periodically submit SIP revisions to address such impairment.[7]

On January 10, 2017, the EPA promulgated revisions to the RHR (82 FR 3078, January 10, 2017) that apply for the second and subsequent implementation periods. The reasonable progress requirements as revised by the 2017 rule (referred to here as the 2017 RHR Revisions) are codified at 40 CFR 51.308(f).

B. Roles of Agencies in Addressing Regional Haze

Because the air pollutants and pollution affecting visibility in Class I areas can be transported over long distances, successful implementation of the regional haze program requires long-term, regional coordination among multiple jurisdictions and agencies that have responsibility for Class I areas and the emissions that impact visibility in those areas. To address regional haze, States need to develop strategies in coordination with one another, considering the effect of emissions from one jurisdiction on the air quality in another. Five regional planning organizations (RPOs), which include representation from State and Tribal governments, EPA, and FLMs, were developed in the lead-up to the first implementation period to address regional haze. RPOs evaluate technical information to better understand how emissions from State and Tribal land impact Class I areas across the country, pursue the development of regional strategies to reduce emissions of particulate matter and other pollutants leading to regional haze, and help States meet the consultation requirements of the RHR.

The Western Regional Air Partnership (WRAP), one of the five regional planning organizations described in the previous paragraph, is a collaborative effort of State governments, local air agencies, Tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Western United States. Members include the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, and 28 Tribal governments.[8] The federal partner members of WRAP are EPA, U.S. National Parks Service (NPS), U.S. Fish and Wildlife Service (USFWS), U.S. Forest Service (USFS), and the Bureau of Land Management (BLM).

The WRAP formed a workgroup to develop a planning framework for State regional haze second implementation period SIPs. The WRAP produced a technical system to support regional modeling of visibility impacts at Class I areas across the West that was based on emissions and monitoring data supplied by its membership. The WRAP Technical Support System (TSS) consolidated air quality monitoring data, meteorological and receptor modeling data analyses, emissions inventories and projections, and gridded air quality/visibility regional modeling results. The TSS is accessible by member States and allows for the creation of maps, figures, and tables to export and use in State plan development. It also maintains the original source data for verification and further analysis. North Dakota collaborated with the WRAP on various aspects of the State's 2022 SIP submission which informed the development of its long-term strategy. This included the identification of Class I areas outside of North Dakota that may be affected by sources in the State, source selection, analysis of air quality monitoring data, preparation of emission inventories, development of reasonable progress goals, and air quality modeling.

C. Status of North Dakota's Regional Haze Plan for the First Implementation Period

The CAA requires that regional haze plans for the first implementation period (2008 through 2018) include, among other things, a long-term strategy for making reasonable progress and best available retrofit technology (BART)

[1] *See* 90 **Federal Register** (FR) 13516 (Mar. 24, 2025).

[2] *See* 82 FR 3078 (Jan. 10, 2017, located at *https://www.federalregister.gov/documents/2017/01/10/2017-00268/protection-of-visibility-amendments-to-requirements-for-State-plans#h-16).*

[3] Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. *See* CAA section 162(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

[4] *See* CAA section 169A.

[5] *Id.* at (a)(1).

[6] There are several ways to measure the amount of visibility impairment, *i.e.,* haze. One such measurement is the deciview, which is the principal metric used by the RHR. Under many circumstances, a change in one deciview will be perceived by the human eye to be the same on both clear and hazy days. The deciview is unitless. It is proportional to the logarithm of the atmospheric extinction of light, which is the perceived dimming of light due to its being scattered and absorbed as it passes through the atmosphere. Atmospheric light extinction (b^{ext}) is a metric used for expressing visibility and is measured in inverse megameters (Mm^{-1}). The formula for the deciview is 10 ln (b^{ext})/10 Mm^{-1}). *See* 40 CFR 51.301.

[7] *See* CAA section 169A(b)(2); see also 40 CFR 51.308(b), (f) (establishing submission dates for iterative regional haze SIP revisions); (64 FR 35714, at 35768 (July 1, 1999)).

[8] A full list of WRAP membership agencies is available at *https://www.westar.org/wrap-council-members/.*

requirements for certain older stationary sources, where applicable.[9]

The governor of North Dakota submitted North Dakota's Regional Haze SIP for the first implementation period to the EPA on March 3, 2010, followed by SIP Supplement No. 1 submitted on July 27, 2010, and SIP Amendment No. 1 submitted on July 28, 2011 (collectively, the ''2010 Regional Haze SIP''). On April 6, 2012, the EPA promulgated a final rule titled ''Approval and Promulgation of Implementation Plans; North Dakota; Regional Haze State Implementation Plan; Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Regional Haze; Final Rule'' (2012 Final Rule).[10] The 2012 Final Rule approved in part and disapproved in part the State's 2010 Regional Haze SIP. The EPA's disapproval included portions of the plan that addressed reasonable progress requirements and North Dakota's BART determinations for Coal Creek Station (Coal Creek) Units 1 and 2 and Antelope Valley Station (Antelope Valley) Units 1 and 2. In the same rulemaking, the EPA promulgated a federal implementation plan (FIP) that imposed, among other things, a NO_X emission limit for Antelope Valley Units 1 and 2, and a NO_X BART determination and emission limit for Coal Creek Units 1 and 2.

Subsequently, North Dakota and other petitioners challenged the 2012 Final Rule in the United States Court of Appeals for the Eighth Circuit, resulting in a September 23, 2013, vacatur and remand. On January 2, 2013, North Dakota submitted a SIP revision to the EPA to provide additional information supporting its original NO_X BART determination for Coal Creek.[11] On September 23, 2013, the Eighth Circuit concluded in *North Dakota* v. *EPA* that the EPA properly disapproved portions of the 2010 Regional Haze SIP, including the reasonable progress determination for Antelope Valley Units 1 and 2.[12] The Eighth Circuit also upheld the EPA's FIP promulgating an emission limit of 0.17 pounds per million British thermal units (lb/MMBtu) NO_X (30-day rolling average) for Antelope Valley Units 1 and 2.[13] However, the Eighth Circuit vacated and remanded the EPA's FIP promulgating an emission limit of 0.13 lb/MMBtu NO_X (30-day rolling average) for Coal Creek.[14]

Several SIP submissions from North Dakota and subsequent EPA actions for the first implementation period followed the Eighth Circuit's decision. On January 12, 2015, North Dakota submitted a SIP revision for a regional haze five-year progress report, pursuant to 40 CFR 51.308(g). On April 26, 2018, the EPA proposed to approve the Coal Creek NO_X BART determination submitted in North Dakota's January 2013 SIP submission.[15] The EPA did not finalize that action and North Dakota subsequently withdrew the Coal Creek Station NO_X BART portion of the 2013 submission as is further explained in Section D below.[16] [17] On August 3, 2020, North Dakota submitted a SIP revision to incorporate the 2012 FIP requirements for Antelope Valley, which the EPA approved on April 5, 2022.[18] In the same action, the EPA withdrew from the CFR the FIP requirements for Coal Creek that the Eighth Circuit vacated in *North Dakota* v. *EPA.*

D. North Dakota's Regional Haze Plan for the Second Implementation Period

In accordance with CAA section 169A and the RHR at 40 CFR 51.308(f), on August 11, 2022, the governor of North Dakota submitted North Dakota's 2022 SIP submission to address the State's regional haze obligations for the second implementation period, which continues through 2028. Concurrently, North Dakota also withdrew its 2013 SIP submission that addressed NO_X BART for Coal Creek.[19] North Dakota's 2022 SIP submission provided an updated submission addressing the first implementation period NO_X BART determination for Coal Creek that was remanded in *North Dakota* v. *EPA.* The EPA approved the Coal Creek NO_X BART portion of North Dakota's 2022 SIP submission on March 10, 2026.[20] The remaining portion of the 2022 SIP submission, addressing North Dakota's second implementation period obligations, is addressed below.

III. Requirements of Regional Haze Plans for the Second Implementation Period

Under the CAA and EPA's regulations, all 50 States, the District of Columbia, and the U.S. Virgin Islands were required to submit regional haze SIPs satisfying the applicable requirements for the second implementation period of the regional haze program by July 31, 2021. Each SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I areas.[21] To this end, 40 CFR 51.308(f) lays out the process by which States determine what constitutes their long-term strategies, with the order of the requirements in 40 CFR 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis and (f)(4) through (6) containing additional, related requirements.[22]

Broadly speaking, a State first must identify the Class I areas within the State and determine the Class I areas outside the State in which visibility may be affected by emissions from the State. These are the Class I areas that must be addressed in the State's long-term strategy.[23] For each Class I area within its borders, a State must then calculate the baseline (five-year average period of 2000–2004), current, and natural visibility conditions (*i.e.,* visibility conditions without anthropogenic visibility impairment) for that area, as well as the visibility improvement made to date and the ''uniform rate of progress'' (URP). The URP is the linear rate of progress needed to attain natural visibility conditions, assuming a starting point of baseline visibility conditions in 2004 and ending with natural conditions in 2064. This linear interpolation is used as a tracking metric to help States assess the amount of progress they are making towards the national visibility goal over time in each Class I area.[24]

Each State having a Class I area and/or emissions that may affect visibility in a Class I area must then develop a long-term strategy that includes the

[9] Requirements for regional haze SIPs for the first implementation period are also contained in CAA section 169A(b)(2).

[10] 77 FR 20894 (Apr. 6, 2012).

[11] North Dakota referred to the January 2, 2013 SIP submission as ''Supplement No. 2.'' EPA herein refers to North Dakota's January 2, 2013 submission as a SIP submission.

[12] *North Dakota* v. *EPA,* 730 F.3d 750, 766 (8th Cir. 2013).

[13] *Id.*

[14] *Id.* at 764.

[15] 83 FR 18248 (Apr. 26, 2018).

[16] North Dakota's 2022 SIP submission, Letter from North Dakota Governor Doug Burgum to EPA Administrator Michael Regan.

[17] As explained in this document in section II.D., North Dakota subsequently withdrew the Coal Creek Station NO_X BART portion of its 2013 SIP submission in its 2022 SIP submission to the EPA that included a revised NO_X BART determination for Coal Creek. On March 10, 2026, the EPA approved the Coal Creek Station NO_X BART portion of the 2022 SIP submission as well as North Dakota's 5-year progress report.

[18] 87 FR 19635 (Apr. 5, 2022).

[19] North Dakota refers to its January 2, 2013, SIP submission as SIP Supplement No. 2.

[20] 91 FR 11474 (Mar. 10, 2026).

[21] *See* CAA section 169A(b)(2)(B).

[22] The EPA explained in the 2017 RHR revisions that the EPA was adopting new regulatory language in 40 CFR 51.308(f) that, unlike the structure in 51.308(d), ''tracked the actual planning sequence.'' (82 FR 3078, at 3091 (Jan. 10, 2017)).

[23] *See* 40 CFR 51.308(f), (f)(2).

[24] *See* 40 CFR 51.308(f)(1).

enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress in such areas. A reasonable progress determination is based on applying the four statutory 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. Additionally, as further explained below, the RHR at 40 CFR 51.3108(f)(2)(iv) separately provides five ''additional factors'' [25] that States must consider in developing their long-term strategies.[26] A State evaluates potential emission reduction measures for those selected sources and determines which are necessary to make reasonable progress. Those measures are then incorporated into the State's long-term strategy.

After a State has developed its long-term strategy, it then establishes reasonable progress goals (RPGs) for each Class I area within its borders by modeling the visibility impacts of all reasonable progress controls at the end of the second implementation period, *i.e.,* in 2028, as well as the impacts of other requirements of the CAA. The RPGs include reasonable progress controls not only for sources in the State in which the Class I area is located, but also for sources in other States that contribute to visibility impairment in that area. The RPGs are then compared to the baseline visibility conditions and the URP to ensure that progress is being made towards the statutory goal of preventing any future and remedying any existing anthropogenic visibility impairment in Class I areas.[27] There are additional requirements in the rule, including FLM consultation, that apply to all visibility protection SIPs and SIP revisions.[28]

While States have discretion to choose any source selection methodology that is reasonable, whatever choices they make should be reasonably explained. To this end, 40 CFR 51.308(f)(2)(i) requires that a State's SIP submission include ''a description of the criteria it used to determine which sources or groups of sources it evaluated.'' The technical basis for source selection, which may include methods for quantifying potential visibility impacts such as emissions divided by distance metrics, trajectory analyses, residence time analyses, and/or photochemical modeling, must also be appropriately documented, as required by 40 CFR 51.308(f)(2)(iii).

Once a State has selected the set of sources, the next step is to determine the emissions reduction measures for those sources that are necessary to make reasonable progress for the second implementation period.[29] This is accomplished by considering the four statutory factors—''the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.'' [30]

The EPA has also explained that, in addition to the four statutory factors, States have flexibility under the CAA and RHR to reasonably consider visibility benefits as an additional factor alongside the four statutory factors.[31] Ultimately, while States have discretion to reasonably weigh the factors and to determine what level of control is needed, 40 CFR 51.308(f)(2)(i) provides that a State ''must include in its implementation plan a description of . . . how the four statutory factors were taken into consideration in selecting the measures for inclusion in its long-term strategy.''

As explained above, 40 CFR 51.308(f)(2)(i) requires States to determine the emission reduction measures for sources that are necessary to make reasonable progress by considering the four statutory factors. Pursuant to 40 CFR 51.308(f)(2), measures that are necessary to make reasonable progress towards the national visibility goal must be included in a State's long-term strategy and in its SIP. If the outcome of a four-factor analysis is that an emissions reduction measure is necessary to make reasonable progress towards remedying existing or preventing future anthropogenic visibility impairment, that measure must be included in the SIP.

The characterization of information on each of the factors is also subject to the documentation requirement in 40 CFR 51.308(f)(2)(iii). The reasonable progress analysis is a technically complex exercise, and also a flexible one that provides States with bounded discretion to design and implement approaches appropriate to their circumstances. Given this flexibility, 40 CFR 51.308(f)(2)(iii) plays an important function in requiring a State to document the technical basis for its decision making so that the public and the EPA can comprehend and evaluate the information and analysis the State relied upon to determine what emission reduction measures must be in place to make reasonable progress. The technical documentation must include the modeling, monitoring, cost, engineering, and emissions information on which the State relied to determine the measures necessary to make reasonable progress.

Additionally, the RHR at 40 CFR 51.3108(f)(2)(iv) separately provides five ''additional factors'' that States must consider in developing their long-term strategies: (1) Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (2) measures to reduce the impacts of construction activities; (3) source retirement and replacement schedules; (4) basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and (5) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy.

Because the air pollution that causes regional haze crosses State boundaries, 40 CFR 51.308(f)(2)(ii) requires a State to consult with other States that also have emissions that are reasonably anticipated to contribute to visibility impairment in a given Class I area. If a State, pursuant to consultation, agrees that certain measures (*e.g.,* a certain emission limitation) are necessary to make reasonable progress at a Class I area, it must include those measures in its SIP.[32] Additionally, the RHR requires that States that contribute to visibility impairment at the same Class I area consider the emission reduction measures the other contributing States have identified as being necessary to make reasonable progress for their own sources.[33] If a State has been asked by another State(s) to consider or adopt certain emission reduction measures,

[25] The five ''additional factors'' for consideration in 40 CFR 51.308(f)(2)(iv) are distinct from the four statutory factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that States must consider and apply to sources in determining reasonable progress.

[26] *See* 40 CFR 51.308(f)(2).

[27] *See* 40 CFR 51.308(f)(2)–(3).

[28] *See e.g.,* 40 CFR 51.308(i).

[29] The CAA provides that, ''[i]n determining reasonable progress there shall be taken into consideration'' the four statutory factors. CAA section 169A(g)(1). However, in addition to four-factor analyses for selected sources, groups of sources, or source categories, a State may also consider additional emission reduction measures for inclusion in its long-term strategy, *e.g.,* from other newly adopted, on-the-books, or on-the-way rules and measures for sources not selected for four-factor analysis for the second implementation period.

[30] *See* CAA section 169A(g)(1).

[31] *See, e.g.,* Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942 (May 4, 2016)), Docket ID No. EPA–HQ–OAR–2015–0531, U.S. Environmental Protection Agency at 186.

[32] *See* 40 CFR 51.308(f)(2)(ii)(A).

[33] *See* 40 CFR 51.308(f)(2)(ii)(B).

but ultimately determines those measures are not necessary to make reasonable progress, that State must document in its SIP the actions taken to resolve the disagreement.[34] Under all circumstances, a State must document in its SIP submission all substantive consultations with other contributing States.[35]

RPGs ''measure the progress that is projected to be achieved by the control measures States have determined are necessary to make reasonable progress based on a four-factor analysis.'' [36] For the second implementation period, the RPGs are set for 2028. Reasonable progress goals are not enforceable targets.[37] While States are not legally obligated to achieve the visibility conditions described in their RPGs, 40 CFR 51.308(f)(3)(i) requires that ''[t]he long-term strategy and the reasonable progress goals must provide for an improvement in visibility for the most impaired days since the baseline period and ensure no degradation in visibility for the clearest days since the baseline period.''

RPGs may also serve as a metric for assessing the amount of progress a State is making towards the national visibility goal. To support this approach, the RHR requires States with Class I areas to compare the 2028 RPG for the most impaired days to the corresponding point on the URP line (representing visibility conditions in 2028 if visibility were to improve at a linear rate from conditions in the baseline period of 2000–2004 to natural visibility conditions in 2064). If the most impaired days RPG in 2028 is above the URP (*i.e.,* if visibility conditions are improving more slowly than the rate described by the URP), each State that contributes to visibility impairment in the Class I area must demonstrate, based on the four-factor analysis required under 40 CFR 51.308(f)(2)(i), that no additional emission reduction measures would be reasonable to include in its long-term strategy.[38] To this end, 40 CFR 51.308(f)(3)(ii) requires that each State contributing to visibility impairment in a Class I area that is projected to improve more slowly than the URP provide ''a robust demonstration, including documenting the criteria used to determine which sources or groups [of] sources were evaluated and how the four statutory factors required by paragraph (f)(2)(i) were taken into consideration in selecting the measures for inclusion in its long-term strategy.''

Section 51.308(f)(6) requires States to have certain strategies and elements in place for assessing and reporting on visibility. Individual requirements under this section apply either to States with Class I areas within their borders, States with no Class I areas but that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area, or both. Compliance with the monitoring strategy requirement may be met through a State's participation in the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring network, which is used to measure visibility impairment caused by air pollution at the 156 Class I areas covered by the visibility program.[39]

All States' SIPs must provide for procedures by which monitoring data and other information are used to determine the contribution of emissions from within the State to regional haze visibility impairment in affected Class I areas, as well as a statewide inventory documenting such emissions.[40] All States' SIPs must also provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for States to assess and report on visibility.[41]

Section 51.308(f)(5) requires a State's regional haze SIP revision to address the requirements of paragraphs 40 CFR 51.308(g)(1) through (5) so that the plan revision due in 2021 will serve also as a progress report addressing the period since submission of the progress report for the first implementation period. The regional haze progress report requirement is designed to inform the public and the EPA about a State's implementation of its existing long-term strategy and whether such implementation is in fact resulting in the expected visibility improvement.[42] To this end, every State's SIP revision for the second implementation period is required to assess changes in visibility conditions and describe the status of implementation of all measures included in the State's long-term strategy, including BART and reasonable progress emission reduction measures from the first implementation period, and the resulting emissions reductions.[43]

CAA section 169A(d) requires that before a State holds a public hearing on a proposed regional haze SIP revision, it must consult with the appropriate FLM or FLMs; pursuant to that consultation, the State must include a summary of the FLMs' conclusions and recommendations in the notice to the public. Consistent with this statutory requirement, the RHR also requires that States ''provide the [FLM] with an opportunity for consultation, in person and at a point early enough in the State's policy analyses of its long-term strategy emission reduction obligation so that information and recommendations provided by the [FLM] can meaningfully inform the State's decisions on the long-term strategy.'' [44] For the EPA to evaluate whether FLM consultation meeting the requirements of the RHR has occurred, the SIP submission should include documentation of the timing and content of such consultation. The SIP revision submitted to the EPA must also describe how the State addressed any comments provided by the FLMs.[45] Finally, a SIP revision must provide procedures for continuing consultation between the State and FLMs regarding the State's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.[46]

Finally, the SIP must meet the approval requirements in CAA section 110(a)(2) for plans ''submitted by a State under this chapter'' to the extent not already addressed in the regulations described previously. As relevant here, the State must provide ''necessary assurances'' that the State has adequate personnel, funding, and authority to carry out the implementation plan, that the State ''is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof,'' and that the State can lawfully rely on regional and local instrumentalities to implement the SIP, as applicable.[47]

IV. EPA's Evaluation of North Dakota's Regional Haze Submission for the Second Implementation Period

In this section of the document, the EPA describes North Dakota's 2022 SIP submission and evaluates it against the requirements of the CAA and RHR for the second implementation period of the regional haze program. This preamble will focus only on the

[34] *See* 40 CFR 51.308(f)(2)(ii)(C).

[35] *Id.*

[36] *See* 82 FR 3078, at 3091 (Jan. 10, 2017).

[37] *See* 40 CFR 51.308(f)(3)(iii).

[38] *See* 40 CFR 51.308(f)(3)(ii).

[39] *See* 40 CFR 51.308(f)(6), (f)(6)(i), (f)(6)(iv).

[40] *See* 40 CFR 51.308(f)(6)(ii), (iii), (v).

[41] *See* 40 CFR 51.308(f)(6)(vi).

[42] *See* 81 FR 26942, at 26950 (May 4, 2016), (82 FR 3078, at 3119 (Jan. 10, 2017)).

[43] *See* 40 CFR 51.308(g)(1) and (2).

[44] *See* 40 CFR 51.308(i)(2).

[45] *See* 40 CFR 51.308(i)(3).

[46] *See* 40 CFR 51.308(i)(4).

[47] *See* CAA section 110(a)(2)(E)(i)–(iii).

portions of North Dakota's 2022 SIP submission that were disapproved in the EPA's 2024 partial approval/partial disapproval: 40 CFR 51.308(f)(2): long-term strategy; 40 CFR 51.308(f)(3): reasonable progress goals; and 40 CFR 51.308(i): Federal Land Manager (FLM) consultation.[48] Because the EPA, in its 2024 partial approval/partial disapproval, approved the portions of North Dakota's 2022 SIP submission relating to 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress (URP); 40 CFR 51.308(f)(4): reasonably attributable visibility impairment; 40 CFR 51.308(f)(5) and 40 CFR 51.308(g): progress report requirements; and 40 CFR 51.308(f)(6): monitoring strategy and other implementation plan requirements,[49] these elements will not be addressed in this action.

A. North Dakota's Long-Term Strategy Under CAA 169A and 40 CFR 51.308(f)(2)

The EPA is proposing to approve North Dakota's long-term strategy for the second implementation period. As explained in other recent actions [50] and in subsection (1)(b) below, the EPA's URP policy is that so long as the Class I areas impacted by a State are below the URP and the State considers the four statutory factors, the State will have presumptively demonstrated it has made reasonable progress for the second implementation period for that area. This policy was not in place at the time of the EPA's partial approval/partial disapproval in 2024. As detailed in this preamble, the EPA finds that North Dakota has met the requirements of CAA 169A(b)(2) and 40 CFR 51.308(f)(2). Within its SIP, North Dakota evaluated and determined the emission reduction measures that are necessary to make reasonable progress by considering the four statutory factors. They also projected that 2028 visibility conditions are all below the 2028 URP for Class I areas in North Dakota and for areas affected by emissions from North Dakota sources. Therefore, the EPA is proposing to conclude that North Dakota's long-term strategy contains the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress.

Each State having a Class I area within its borders, or emissions that may affect visibility in any Class I area outside the State must develop a long-term strategy for making reasonable progress towards the national visibility goal for each impacted Class I area.[51] As explained in the II. Background section of this document, reasonable progress is achieved when all States contributing to visibility impairment in a Class I area are implementing the measures that have been determined necessary to make reasonable progress through consideration of the four statutory factors.[52] Each State's long-term strategy must include the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress.[53] After considering the four statutory factors, all measures that are determined to be necessary to make reasonable progress must be incorporated into the long-term strategy. In developing its long-term strategy, a State must also consider the five additional factors in 40 CFR 51.308(f)(2)(iv). As part of its reasonable progress determinations, the State must describe the criteria used to determine which sources, or group of sources, were evaluated (*i.e.,* subject to four-factor analysis) for the second implementation period and how the four statutory factors were taken into consideration in selecting the emission reduction measures for inclusion in the long-term strategy.[54]

1. North Dakota's Long-Term Strategy Four-Factor Analysis

a. Summary of North Dakota's Long-Term Strategy Four-Factor Analysis

As detailed below, the EPA is proposing to approve North Dakota's long-term strategy because North Dakota's 2022 SIP submission meets CAA and RHR requirements. As detailed in North Dakota's 2022 SIP submission, North Dakota determined that existing measures for Otter Tail Power Company—Coyote Station, Basin Electric Power Cooperative—Antelope Valley Station, Basin Electric Power Cooperative—Leland Olds Station, Coal Creek Station, Minnkota—Milton R. Young Station, Montana Dakota Utilities—Heskett Station, Petro-Hunt, L.L.C.—Little Knife Gas Plant, Hess Tioga Gas Plant, LLC—Tioga Gas Plant, Northern Border Compressor Station No. 4, and Dakota Gasification Company—Great Plains Synfuels Plant comprise what is necessary to make reasonable progress based on an analysis of the four statutory factors.[55] As a result of the evaluation, North Dakota did not find it reasonable to require additional emission limitations, compliance schedules, or control measures at the selected sources.

Under 40 CFR 51.308(f)(2)(i), SIP submittals must include a description of the criteria a State used to determine which sources, or groups of sources, to evaluate through four-factor analysis. In its 2022 SIP submission, North Dakota focused its control strategy analysis for the second implementation period on emissions of NO_X and SO_2.[56] NO_X and SO_2 are the two primary pollutants that react to form ammonium nitrates and ammonium sulfates, the primary visibility impairing pollutants that affect visibility at Class I areas in North Dakota on the most impaired days.[57] In North Dakota, point sources are the largest contributors to SO_2 and NO_X.[58] Thus, North Dakota focused primarily on existing point sources in this implementation period.

For purposes of source selection, North Dakota utilized a Q/d metric. The Q/d screening metric uses a source's annual emissions in tons (Q) divided by the distance in kilometers (d) between the source and the nearest Class I area, along with a reasonably selected threshold for this metric. The larger the Q/d value, the greater the source's expected effect on visibility in each associated Class I area. Using a Q/d threshold of 10,[59] North Dakota selected ten facilities for four-factor analysis: Coyote Station, Antelope Valley, Milton R. Young Station, Coal Creek Station, Leland Olds Station, Heskett Station, Little Knife Gas Plant, Tioga Gas Plant, Northern Border Compressor Station #4,

[48] 89 FR 95126 (Dec. 2, 2024).

[49] 89 FR 56693 (July 10, 2024); finalized at 89 FR 95126 (Dec. 2, 2024).

[50] *See* 90 FR 20425, at 20434 (May 14, 2025), 90 FR 22033, at 22043 (May 23, 2025); 90 FR 22166, at 22185; (May 23, 2025); 90 FR 25944, at 25952 (June 18, 2025); 90 FR 25975, at 25980 (June 18, 2025); 90 FR 29737, at 29738 (July 7, 2025); 90 FR 34792, at 34796 (July 24, 2025); 90 FR 36005, at 36017 (July 31, 2025); 90 FR 40272, at 40287 (Aug. 19, 2025); 90 FR 43030, at 43038 (Sept. 5, 2025); 90 FR 42833, at 42834 (Sept. 5, 2025); 90 FR 43958, at 43966 (Sept. 11, 2025); 90 FR 46070 (Sept. 25, 2025); 90 FR 48481, at 48496 (Oct. 23, 2025); 90 FR 48855, at 48859 (Oct. 30, 2025); 90 FR 54586 (Nov. 28, 2025); 90 FR 57636, at 57637 (Dec. 11, 2025); 91 FR 5321, at 5322 (Feb. 6, 2026); 91 FR 6581, at 6590 (Feb. 12, 2026).

[51] *See* CAA section 169A(b)(2)(B).

[52] *See* 40 CFR 51.308(f)(2)(i).

[53] *See* 40 CFR 51.308(f)(2).

[54] *See* 40 CFR 51.308(f)(2)(iii).

[55] North Dakota's 2022 SIP submission, section 5.2.

[56] North Dakota's 2022 SIP submission, section 5.1.

[57] *Id.*

[58] *Id.*

[59] The Q/d threshold of ''10'' is based on the Federal Land Managers' Air Quality Related Values Work Group (FLAG) report that was issued in October 2010 that adopts similar criteria derived from EPA's 2005 Best Available Retrofit Technology (BART) guidelines for the Regional Haze Rule. *See* Federal Land Managers' Air Quality Related Values Work Group (FLAG) Phase I Report—Revised (2010), Background Information on Thresholds: *https://irma.nps.gov/DataStore/DownloadFile/420352*.

and Great Plains Synfuels Plant.[60] North Dakota required each of these facilities to submit a report detailing available emission control measures. Section 5.2 of North Dakota's 2022 SIP submission contains North Dakota's evaluation of the four statutory factors for each source and North Dakota's determinations of the source-specific emission reduction measures necessary to make reasonable progress.

b. EPA's Evaluation of North Dakota's Long-Term Strategy Four-Factor Analysis

Based on the EPA's review, the EPA finds that North Dakota's 2022 SIP submission satisfies the requirements under 51.308(f)(2)(i) because North Dakota selected 10 point sources, evaluated the four statutory factors, and determined the emission reductions necessary to make reasonable progress as described in section IV.A.1.a. of this document.

As discussed earlier in this preamble, CAA section 169A(b)(2) requires each State to have a plan for making reasonable progress toward the national visibility goal. CAA section 169A(g)(1) specifies: ''[I]n determining reasonable progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.'' [61] The RHR implements this statutory requirement in 40 CFR 51.308(f) for the second and subsequent implementation periods for regional haze. 40 CFR 51.308(f) requires States to submit a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I area within the State and for each mandatory Class I area located outside the State that may be affected by emissions from the State. 40 CFR 51.308(f)(2)(i) lays out the CAA 169A four statutory factor criteria for the evaluation and development of the long-term strategy.

With respect to source selection, North Dakota used the 2012–2016 average annual emissions of NO_X and SO_2 in tons divided by distance in kilometers between a source and the nearest Class I area as a surrogate for baseline visibility impact (Q/d). Applying this protocol, North Dakota selected the 10 point sources identified above for analysis. As stated in section IV.A.1.a., 40 CFR 51.308(f)(2)(i) requires that a State's SIP submission include a ''description of the criteria it used to determine which sources or groups of sources it evaluated,'' and 40 CFR 51.308(f)(2)(iii) requires that it must be appropriately documented. Because North Dakota provided a detailed description of the technical information [62] used to select a reasonable set of sources for a four-factor analysis, the EPA finds that North Dakota's source selection was reasonable and consistent with the requirements of 40 CFR 51.308(f)(2).[63] Based upon the analysis, North Dakota's 2022 SIP submission does not require additional emission control measures to make reasonable progress.

In the EPA's 2024 partial approval/partial disapproval action, the EPA concluded that North Dakota had improperly relied on the visibility impact of controls to reject controls at Coyote Station and Antelope Valley, that North Dakota rejected controls without providing adequate justification at Coal Creek and Leland Olds, and that North Dakota had not adequately considered the time necessary for compliance factor in its evaluation of additional NO_X controls at Coal Creek.[64] As explained below, based on the EPA's updated policy, the EPA proposes to reconsider and reverse the 2024 disapproval of North Dakota's long-term strategy in this action.

As explained in other recent actions [65] and more specifically in this section below, the EPA's recently implemented policy is that so long as the Class I areas impacted by a State are below the URP and the State considers the four statutory factors, the State will have presumptively demonstrated it has made reasonable progress for the second implementation period for that area. The EPA believes this policy recognizes the considerable improvements in visibility impairment that have been made by a wide variety of State and Federal programs in recent decades. When the 2028 URP is adjusted for wildland prescribed fire and international anthropogenic impacts, all of the Class I areas impacted by North Dakota are below the 2028 URP.[66]

Based on a reevaluation of the 2022 SIP submission under the new URP policy, the EPA finds that North Dakota's four-factor analyses and control determinations at Coyote Station, Antelope Valley, Coal Creek, and Leland Olds are reasonable and the EPA agrees with North Dakota's conclusion that no additional emission control measures are necessary to include in North Dakota's long-term strategy. Additionally, within this preamble the EPA finds that North Dakota properly evaluated the time necessary for compliance factor in its analysis of potential NO_X controls for reasonable progress at Coal Creek because their analysis included compliance schedules, such as the installation schedule, for the selected controls. The selected LNC3+ control was installed at Unit 2 in 2007 and at Unit 1 in 2020.[67] Thus, the EPA finds that North Dakota adequately considered the time necessary for the compliance factor in its analysis of potential controls at Coal Creek since the control measures were installed in prior years.

With respect to the EPA's application of the URP policy, the EPA has the discretion and authority to change policy. In *FCC* v. *Fox Television Stations, Inc.,* the U.S. Supreme Court plainly stated that an agency is free to change a prior policy and ''need not demonstrate . . . that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be

[60] North Dakota's 2022 SIP submission, section 5.1.2.

[61] The EPA refers to the CAA section 169A(g)(1) requirements as the four statutory factors.

[62] Technical information provided included facilities' recent average annual emissions of SO_2 and NO_X and distance to the nearest Class I area. This is known as Q/d, where the ''Q'' represents emissions in tons, and ''d'' represents distance in kilometers. *See* Chapter 5 and table 35 in the 2022 SIP submission.

[63] North Dakota's 2022 SIP submission, section 5.1.2.

[64] 89 FR 56693, at 56705 (July 10, 2024); Finalized at 89 FR 95126 (Dec. 2, 2024).

[65] *See* 90 FR 20425, at 20434 (May 14, 2025), 90 FR 22033, at 22043 (May 23, 2025); 90 FR 22166, at 22185; (May 23, 2025); 90 FR 25944, at 25952 (June 18, 2025); 90 FR 25975, at 25980 (June 18, 2025); 90 FR 29737, at 29738 (July 7, 2025); 90 FR 34792, at 34796 (July 24, 2025); 90 FR 36005, at 36017 (July 31, 2025); 90 FR 40272, at 40287 (Aug. 19, 2025); 90 FR 43030, at 43038 (Sept. 5, 2025); 90 FR 42833, at 42834 (Sept. 5, 2025); 90 FR 43958, at 43966 (Sept. 11, 2025); 90 FR 46070 (Sept. 25, 2025); 90 FR 48481, at 48496 (Oct. 23, 2025); 90 FR 48855, at 48859 (Oct. 30, 2025); 90 FR 54586 (Nov. 28, 2025); 90 FR 57636, at 57637 (Dec. 11, 2025); 91 FR 5321, at 5322 (Feb. 6, 2026); 91 FR 6581, at 6590 (Feb. 12, 2026).

[66] WRAP TSS; Colorado State University (CSU) and the Cooperative Institute for Research in the Atmosphere (CIRA), 25 Mar 2026, *https://views.cira.colostate.edu/tssv2.*

[67] North Dakota's 2022 SIP submission, Appendix F.1–2. The EPA also notes a statement from the 2019 Guidance that discusses how the time necessary for compliance factor should be used in decision making: ''We recommend that states consider the time necessary for compliance as part of their determination of what compliance deadlines for selected control measures are reasonable, rather than as part of their determination whether to adopt the control measures in the first instance'' (2019 Guidance at 41).

better.'' [68] The EPA believes that its recently adopted policy aligns with the purpose of the statute and RHR, which is achieving ''reasonable'' progress, not maximal progress, toward Congress' natural visibility goal.

In the 2017 RHR Revisions, the EPA addressed the role of the URP as it relates to a State's development of its second implementation period SIP.[69] Specifically, in response to comments suggesting that the URP should be considered a ''safe harbor'' that relieve States of any obligation to consider the four statutory factors, the EPA explained that the URP was not intended to be such a safe harbor.[70] ''Some commenters stated a desire for corresponding rule text dealing with situations where RPGs are equal to (''on'') or better than (''below'') the URP or glidepath. Several commenters stated that the URP or glidepath should be a 'safe harbor,' opining that States should be permitted to analyze whether projected visibility conditions for the end of the implementation period will be on or below the glidepath based on on-the-books or on-the-way control measures, and that in such cases a four-factor analysis should not be required.'' [71]

Other 2017 RHR comments indicated a similar approach, such as ''a somewhat narrower entrance to a 'safe harbor,' '' by suggesting that if current visibility conditions are already below the end-of-planning-period point on the URP line, a four-factor analysis should not be required.'' [72] The EPA stated in its response that the EPA did not agree with either of these recommendations. ''The CAA requires that each SIP revision contain long-term strategies for making reasonable progress, and that in determining reasonable progress States must consider the four statutory factors. Treating the URP as a safe harbor would be inconsistent with the statutory requirement that States assess the potential to make further reasonable progress towards natural visibility goal in every implementation period.'' [73]

However, so long as a State considers the four statutory factors, the presumption that a Class I area below the URP is achieving reasonable progress is consistent with the CAA and RHR. The EPA believes this policy also recognizes the considerable improvements in visibility impairment that have been made by a wide variety of State and Federal programs in recent decades. In sum, North Dakota selected a number of sources, evaluated emissions control measures, and considered the four statutory factors. In addition, visibility conditions at all Class I areas to which North Dakota contributes are below the URP. In light of these facts, the EPA agrees with North Dakota's conclusion that no additional measures are necessary to make reasonable progress during the second implementation period and is proposing to approve the State's SIP submittal.

2. Other Long-Term Strategy Requirements

When developing long-term strategies, States must meet the additional requirements specified in 40 CFR 51.308(f)(2)(ii)–(iv). After reviewing North Dakota's 2022 SIP elements, the EPA finds that North Dakota has satisfied these additional long-term strategy requirements of 40 CFR 51.308(f)(2)(ii)–(iv).

40 CFR 51.308(f)(2)(ii) requires States to consult with other States to develop coordinated emission management strategies when they have emissions that are reasonably anticipated to contribute to visibility impairment in Class I areas across State boundaries. Specifically, 40 CFR 51.308(f)(2)(ii)(A) requires a State to demonstrate that its SIP includes all measures agreed upon during the State-to-State consultations. North Dakota considered additional controls for facilities affecting out of State Class I areas through a four-factor analysis and determined that no additional controls on North Dakota sources are required. 40 CFR 51.308(f)(ii)(B) requires a State to consider emission reduction measures, identified by other States, as being necessary to make reasonable progress in a Class I area. North Dakota did not receive recommendations for any of the sources within the State from other States. Section 2.1 of North Dakota's 2022 SIP submission describes North Dakota's consultation with other States throughout the development of its regional haze plan.[74]

40 CFR 51.308(f)(2)(iii) requires States to document the technical basis on which it is relying to determine the emission reduction measures that are necessary to make reasonable progress in each impacted mandatory Class I area. This includes modeling, monitoring, costs, engineering, and emissions information. North Dakota relied on WRAP technical information, modeling, and analysis to support development of its long-term strategy. Section 4.1 of North Dakota's 2022 SIP submission describes the emissions inventories and projections North Dakota used in its analysis, including its ''on-the-books'' and ''potential additional controls'' modeling scenarios.

40 CFR 51.308(f)(2)(iv) specifies five additional factors States must consider in developing their long-term strategies. The five additional factors are: emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; measures to mitigate the impacts of construction activities; source retirement and replacement schedules; basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. North Dakota described each of the five additional factors and how it considered those factors in section 5.3.1. to 5.3.5. of its 2022 SIP submission.

North Dakota's emission reductions due to ongoing air pollution programs are through State regulations contained in the North Dakota Administrative Code, federal programs such as the Volkswagen Environmental Mitigation Trust, EPA's Diesel Emissions Reductions Act, Acid Rain Program, Tier 3 Motor Vehicle Emission and Fuel Standards, Tier 4 Emission Standards for Nonroad Diesel Engines, Emission Standards for New Nonroad Engines, Heavy Duty Highway Engine and Vehicle Standards, the NO_X SIP Call, National Emission Standards for Industrial, Commercial, and Institutional Boilers and Process Heaters, National Emission Standards for Hazardous Air Pollutants, and maximum achievable control technology (MACT) Standards.[75] North Dakota also listed measures to mitigate the impacts of construction activities, source retirements and replacement schedules, smoke management practices, and the anticipated net impact on visibility due to emissions changes over the long-term strategy period.[76]

[68] *See* 556 U.S. 502, 515 (2009) (referencing *Motor Vehicle Mfrs. Ass'n of United States, Inc.* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983)). *See* also *Perez* v. *Mortgage Bankers Assn.,* 135 S. Ct. 1199 (2015).

[69] *See* 82 FR 3078 (Jan. 10, 2017).

[70] *Id.* at 3099.

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] North Dakota's 2022 SIP submission, section 2.1.

[75] North Dakota's 2022 SIP submission, section 5.3.1.

[76] North Dakota's 2022 SIP submission, sections 5.3.2–5.3.5.

B. Reasonable Progress Goals

The EPA proposes to find that North Dakota's 2022 SIP submission meets the reasonable progress goal requirements under 40 CFR 51.308(f)(3). Section 51.308(f)(3)(i) requires a State in which a Class I area is located to establish RPGs, one for the most impaired days and one for the clearest days. These RPGs reflect the visibility conditions that will be achieved at the end of the implementation period as a result of the emission limitations, compliance schedules and other measures required under paragraph (f)(2) in States' long-term strategies, as well as implementation of other CAA requirements.

After establishing its long-term strategy, North Dakota developed reasonable progress goals for each Class I area for the 20 percent most impaired days and 20 percent clearest days based on the results of 2028 WRAP modeling.[77] The reasonable progress goals are based on North Dakota's long-term strategy, the long-term strategy of other States that may affect Class I areas in North Dakota, and other CAA requirements. Per 40 CFR 51.308(f)(3)(iv), the EPA must evaluate the demonstrations the State developed pursuant to 40 CFR 51.308(f)(2) to determine whether the State's reasonable progress goals for visibility improvement provide for reasonable progress towards natural visibility conditions.

Compliance with the reasonable progress goals requirements under 40 CFR 51.308(f)(3) is in part dependent on compliance with the long-term strategy provisions under 40 CFR 51.308(f)(2). Since reasonable progress goals must reflect conditions that are projected to be achieved as a result of the long-term strategy (40 CFR 51.308(f)(3)(i)), it is not possible to approve the reasonable progress goals if the long-term strategy is not approvable. Therefore, in the EPA's 2024 partial approval/partial disapproval of North Dakota's 2022 SIP submission, the EPA disapproved North Dakota's long-term strategy under 51.308(f)(2) and disapproved North Dakota's reasonable progress goals under 51.308(f)(3).[78] However, as described above, based on the URP policy, the EPA is now proposing to conclude that North Dakota's long-term strategy contains the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress. North Dakota projected reasonable progress goals that reflect the visibility conditions that are projected to be achieved by the end of 2028 as a result of those enforceable emissions limitations, compliance schedules, and other measures required under 51.308 (f)(2).[79] North Dakota projected its reasonable progress goal for Lostwood Wilderness Area at 15.78 deciview impairment in 2028, which is under the adjusted uniform rate of progress of 16.00 deciview impairment.[80] North Dakota projected its reasonable progress goal for Theodore Roosevelt National Park at 13.56 deciview impairment in 2028, which is under the adjusted uniform rate of progress of 14.43 deciview.[81] North Dakota showed its reasonable progress goals achieve a faster rate of improvement in visibility than the URP, addressing the requirements of paragraph (f)(3)(ii).[82] Therefore, since the EPA has determined that North Dakota's long-term strategy and the associated RPGs meet CAA and RHR requirements, the EPA is proposing to approve the RPG component of North Dakota's 2022 SIP submission in this preamble.

C. Requirements for State and Federal Land Manager Coordination

The EPA has determined that North Dakota's long-term strategy meets CAA and RHR requirements, and the SIP meets all of the FLM consultation requirements. Therefore, the EPA is proposing to approve the FLM consultation component of North Dakota's 2022 SIP submission in this action.

CAA section 169A(d) requires States to consult with FLMs before holding the public hearing on a proposed regional haze SIP, and to include a summary of the FLMs' conclusions and recommendations in the notice to the public. In addition, the 40 CFR 51.308(i)(2) FLM consultation provision requires a State to provide FLMs with an opportunity for consultation that is early enough in the State's policy analysis of its emission reduction obligation so that information and recommendations provided by the FLMs can meaningfully inform the State's decisions on its long-term strategy. The opportunity for consultation will be deemed to have been early enough if the consultation has taken place at least 120 days prior to holding any public hearing or other public comment opportunity on the implementation plan.[83] Regardless, the opportunity for consultation must be provided at least sixty days before a public hearing or public comment period at the State level.[84] Section 51.308(i)(2) lists two substantive topics on which FLMs must be provided an opportunity to discuss with States: assessment of visibility impairment in any Class I area and recommendations on the development and implementation of strategies to address visibility impairment. Section 51.308(i)(3) requires States, in developing their SIPs, to include a description of how they addressed FLM comments.

North Dakota's 2022 SIP submission summarizes the State's consultation and coordination with the FLMs. North Dakota met via video conference with the NPS on November 6, 2020, and December 15, 2020, and with the USFS on November 23, 2020. Upon completing its draft 2022 SIP submission, North Dakota provided it to FLMs for a review and consultation period from September 20, 2021, through November 19, 2021. Additionally, North Dakota held a video conference with the NPS, USFS, and EPA Region 8 staff on November 10, 2021, to discuss the draft and receive feedback from the FLMs. North Dakota received comments from USFS on November 17, 2021, and from the NPS on November 19, 2021.[85] North Dakota responded to the FLM comments and included the responses in appendix D of its 2022 SIP submission.

Because the EPA disapproved North Dakota's long-term strategy under 51.308(f)(2) and the reasonable progress goals under 51.308(f)(3), the EPA also disapproved North Dakota's FLM consultation under 51.308(i).[86] While North Dakota did take administrative steps to provide the FLMs the opportunity to review and provide feedback on the State's draft regional haze plan, the EPA could not approve the consultation in that plan because the EPA determined that the plan did not meet the statutory and regulatory requirements of the CAA and the RHR. Therefore, compliance with 40 CFR 51.308(i) is dependent on satisfying the 40 CFR 51.308(f)(2)'s long-term strategy provisions and (f)(3)'s reasonable

[77] North Dakota's 2022 SIP Submission, section 6.

[78] 89 FR 95127 (Dec. 2, 2024).

[79] North Dakota's 2022 SIP submission, section 6.

[80] North Dakota's 2022 SIP submission, section 6.1.1.

[81] *Id.*

[82] North Dakota's 2022 SIP submission, section 6.2 and 6.3.

[83] 40 CFR 51.308(i)(ii)(2) and August 20, 2019, Memorandum ''Guidance on Regional Haze State Implementation Plans for the Second Implementation Period,'' from Peter Tsirigotis, Director, to Regional Air Division Directors, Regions 1–10.

[84] *Id.*

[85] The USFWS did not comment on North Dakota's 2022 SIP submission.

[86] 89 FR 95127 (Dec. 2, 2024).

progress goals provisions. However, as described in section IV.A. of this document and in other recent actions, based on the EPA's URP policy, the EPA is proposing to approve North Dakota's long-term strategy and reasonable progress goals. Because North Dakota evaluated and determined the emission reduction measures that are necessary to make reasonable progress by considering the four statutory factors, and the projected 2028 visibility conditions for Class I areas both in North Dakota and those areas influenced by emissions from North Dakota sources, are all below the 2028 URP, the EPA finds that North Dakota's long-term strategy contains the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress. Therefore, since the EPA has determined that North Dakota's long-term strategy meets CAA and RHR requirements, and the SIP meets all of the FLM consultation requirements, the EPA is proposing to approve the FLM consultation component of North Dakota's 2022 SIP submission in this action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.[87] Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 25, 2026.

Cyrus M. Western,

Regional Administrator, Region 8.

[FR Doc. 2026–18290 Filed 9–8–26; 8:45 am]

BILLING CODE 6560–50–P

[87] 42 U.S.C. 7410(k); 40 CFR 52.02(a).