

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY  
SUBCOMMITTEE ON ENVIRONMENT**

**HEARING CHARTER**

*Examining EPA's Regional Haze Program: Regulations Without Visible Benefits*

Wednesday, March 23, 2016  
9:30 a.m. – 11:30 a.m.  
2318 Rayburn House Office Building

**PURPOSE**

The Environment Subcommittee will hold a hearing entitled *Examining EPA's Regional Haze Program: Regulations Without Visible Benefits* on Wednesday, March 23, 2016, at 9:30 a.m. in Room 2318 of the Rayburn House Office Building. The purpose of the hearing is to examine the Environmental Protection Agency's (EPA) Regional Haze Program, including its scientific underpinnings. Witnesses will discuss the impact and costs of these regulations on various stakeholders, including individual states.

**WITNESSES**

- **Mr. William Yeatman**, Senior Fellow, Competitive Enterprise Institute
- **Mr. Thomas P. Schroedter**, Executive Director and General Counsel, Oklahoma Industrial Energy Consumers
- **Mr. Bruce Polkowsky**, Environmental Policy Consultant
- **Mr. Aaron M. Flynn**, Partner, Hunton & Williams

**BACKGROUND**

The Regional Haze Rule, found in sections 169A and 169B of the Clean Air Act, call for state and federal agencies to work together to improve visibility in 156 national parks and wilderness areas, including the Grand Canyon and Yosemite. The rule requires individual states, in coordination with EPA, the National Park Service, U.S. Fish and Wildlife Service, the U.S. Forest Service, and other interested parties, to develop and implement air quality protection plans to reduce the pollution that causes visibility impairment.

The rule calls for states to use Best Available Retrofit Technology (BART) on existing sources of emissions impairing visibility.<sup>1</sup> Through State Implementation Plans (SIPs), BART requires certain industrial facilities emitting pollution to implement measures to reduce emissions of pollutants contributing to regional haze. The Clean Air Act requires that BART should “take into

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<sup>1</sup> <https://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/html/USCODE-2013-title42-chap85-subchapl-partC-subpartii-sec7491.htm>

consideration the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.”<sup>2</sup>

Congress intended the Regional Haze Rule to be a state-led initiative since it is an aesthetic regulation. In addition, the intent of the Regional Haze Rule was to encourage and promote state and federal agencies to work together to improve visibility inside national parks and wilderness areas. However, EPA has recently imposed 14 Regional Haze Federal Implementation Plans (FIPs). Currently, two additional FIPs are being finalized. The cost of the 14 Regional Haze FIPs are almost three times the combined sum of all Clean Air Act FIPs imposed by the previous three administrations, which imposed only five total Clean Air Act takeovers. The Obama Administration has imposed 54 Clean Air takeovers of state programs (14 of which are Regional Haze) since 2009.<sup>3</sup>

EPA rejected Texas’s Regional Haze SIP and recently imposed a Regional Haze FIP on the state. On March 18 2016, Texas Attorney General Ken Paxton requested a stay of this Texas FIP in the U.S. Court of Appeals for the Fifth Circuit. The stay would prevent the U.S. Environmental Protection Agency (EPA) from imposing its FIP until it is decided in the courts.<sup>4</sup> Texas plans on challenging this mandate in the U.S. Court of Appeals for the Fifth Circuit.<sup>5</sup> EPA’s Texas FIP would affect 14 power plants and cost more than \$2 billion.<sup>6</sup> EPA rejected Arkansas’s Regional Haze compliance plan and now is trying to stage a regulatory takeover that would cost ratepayers in the state slightly more than \$200 million annually for the next 30 years.<sup>7</sup> In Oklahoma, the utility company OG&E Energy Corporation expects to spend more than \$500 million on two scrubbers in order to comply with regional haze regulations.<sup>8</sup>

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<sup>2</sup> <https://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/html/USCODE-2013-title42-chap85-subchapl-partC-subpartii-sec7491.htm>

<sup>3</sup> <http://www.globalwarming.org/2015/12/09/epa-imposes-54th-clean-air-act-federal-takeover-of-a-state-program-previous-3-presidents-imposed-5-total-among-them/>

<sup>4</sup> [https://www.texasattorneygeneral.gov/files/eypress/files/2016/regional\\_haze.pdf](https://www.texasattorneygeneral.gov/files/eypress/files/2016/regional_haze.pdf)

<sup>5</sup> <http://www.texaslawyer.com/id=1202751167112/Texas-Requests-5th-Circuit-Examination-of-Environmental-Protection-Agency-Regional-Haze-Plan?slreturn=20160217170220>

<sup>6</sup> <http://www.regulations.gov/#!documentDetail;D=EPA-R06-OAR-2014-0754-0008>

<sup>7</sup> FIP <https://www.gpo.gov/fdsys/pkg/FR-2015-04-08/pdf/2015-06726.pdf>

<sup>8</sup> <http://newsok.com/article/5478494>