



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0267; FRL-9962-74-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
District of Columbia; Regional Haze Five-Year Progress Report State Implementation Plan**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the District of Columbia State Implementation Plan (SIP) submitted by the District of Columbia (the District) through the District of Columbia Department of Energy and Environment (DOEE). The District's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (regional haze SIP). EPA is proposing approval of the District's SIP revision because EPA has determined that it satisfactorily addresses the progress report and adequacy determination requirements for the first implementation period for regional haze. This action is being taken under the CAA.

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0267 at <https://www.regulations.gov>, or via email to rehn.brian@epa.gov. For comments

submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure 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, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sara Calcinore, (215) 814-2043, or by e-mail at calcinore.sara@epa.gov.

SUPPLEMENTARY INFORMATION: On March 2, 2016, the District submitted, as a SIP revision (progress report SIP), a report on progress made for visibility improvement in the first implementation period. This progress report SIP included a determination that the existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals.

I. Background

States are required to submit, in the form of a SIP revision, a progress report that evaluates progress towards the RPGs for each mandatory Class I federal area within the state and in each mandatory Class I federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. *See* 40 CFR 51.308(h). The progress report SIP is due five years after submittal of the initial regional haze SIP. On October 27, 2011, DOEE submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308. On February 2, 2012 (77 FR 5191), EPA approved the District's first regional haze SIP. The District submitted its first progress report SIP on March 2, 2016 prior to the October 27, 2016 due date.

II. Requirements for the Regional Haze Progress Report SIPs and Adequacy

Determinations

Under 40 CFR 51.308(g), states must submit a regional haze progress report as a SIP revision that addresses, at a minimum, the seven elements found in 40 CFR 51.308(g). As described in further detail in section III of this rulemaking action, to meet the progress report requirement, 40 CFR 51.308(g) requires: (1) A description of the status of measures in the approved regional haze SIP; (2) a summary of emissions reductions achieved;(3) an assessment of visibility conditions for each Class I area in the state; (4) an analysis of changes in emissions from sources and activities within the state; (5) an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; (6) an assessment of the sufficiency of the approved regional haze SIP; and (7) a review of the state's visibility monitoring strategy.

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. As described in further detail in section III of this rulemaking action, to meet the adequacy determination requirement, 40 CFR 51.308(h) requires states to either: (1) Submit a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other state(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

III. The District's Regional Haze Progress Report and Adequacy

Determination and EPA's Analysis

A. Regional Haze Progress Report SIPs

This section summarizes each of the seven elements that must be addressed by the progress report under the provisions of 40 CFR 51.308(g); how the District's progress report SIP

addressed each element; and EPA's analysis and proposed determination as to whether the District satisfied each element.

The provisions under 40 CFR 51.308(g)(1) require a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state. The District evaluated the status of all measures included in its 2011 regional haze SIP in accordance with the requirements under 40 CFR 51.308(g)(1). The measures included applicable federal programs (e.g., mobile source rules, maximum achievable control technology (MACT) standards, and federal and state control strategies for electric generating units (EGUs) such as the Clean Air Interstate Rule (CAIR), Cross State Air Pollution Rule (CSAPR), and state regulations for EGUs). The District's summary includes a discussion of the benefits associated with each measure and quantifies those benefits wherever possible. The progress report SIP also discusses the status and implementation of the best available retrofit technology (BART) determinations. The District's 2011 regional haze SIP submittal addressed its two BART eligible units at one facility through a permit condition requiring the shut down of each unit by December 17, 2012. The District's progress report SIP confirms that these units have been shutdown.¹ Finally, the District's progress report SIP discusses implementation of additional regulations and requirements developed after the original regional haze SIP was prepared. Some of these regulations and requirements include the District's low sulfur fuel oil regulations and additional air toxics and hazardous air pollution regulations which became applicable after the District's regional haze SIP was submitted.

¹ In summary, the District had no BART subject sources because its only BART eligible units received a permit to shut down and subsequently did in fact permanently retire.

EPA proposes to find that the District's analysis adequately addresses the provisions under 40 CFR 51.308(g)(1). In the regional haze SIP, the District documents the implementation status of measures from its regional haze SIP and describes additional measures that came into effect since the District's regional haze SIP was completed, including new regulations and various federal measures. EPA proposes to conclude that the District has adequately addressed the status of control measures in its regional haze SIP, as required by the provisions under 40 CFR 51.308(g)(1), by discussing the status of key measures that were relied upon in the first implementation period.

The provisions under 40 CFR 51.308(g)(2) require the state to provide a summary of the emissions reductions achieved in the state through the measures subject to the requirements under 40 CFR 51.308(g)(1). The district provided an assessment of the following visibility impairing pollutants: sulfur dioxide (SO₂), nitrogen oxides (NO_x), fine particulate matter (PM_{2.5}), coarse particulate matter (PM₁₀), volatile organic compounds (VOC), and ammonia (NH₃). The Mid-Atlantic/Northeast Visibility Union (MANE-VU), the regional planning organization (RPO) of which the District is a member, had determined for the initial round of regional haze SIPs that the largest contributor to visibility impairment in the Mid-Atlantic and Northeastern states is SO₂. Therefore, the District provided additional information on SO₂ emissions from stationary sources. Overall, the District states that emissions of visibility impairing pollutants have decreased significantly. Emissions for all of the analyzed visibility impairing pollutants provided for year 2011 (the last year for which a comprehensive national emissions inventory (NEI) is available) demonstrate large decreases from the District's baseline emissions in 2002. In addition to the 2002 and 2011 emissions data which is presented in Table 1, stationary source SO₂ emissions are also presented in Table 2 for the same years. Overall, the

District demonstrated emissions reductions in visibility impairing pollutants from the 2002 baseline emissions to the 2011 NEI emissions for the same pollutants (*see* Table 1 below); the District also demonstrated emissions reductions of SO₂ emissions from stationary sources (*see* Table 2 below); therefore, EPA proposes to conclude that the District has adequately addressed the requirements under 40 CFR 51.308(g)(2) with its summary of large emissions reductions of visibility impairing pollutants.

Table 1. Pollutant Emissions (tons per year)

	2002 Emissions	2011 Emissions
SO ₂	2946	1829
PM ₁₀	6986	3410
PM _{2.5}	1613	1361
NO _x	14897	9418
VOC	13469	9195
NH ₃	418	330

Table 2. Point Source SO₂ Emissions (tons per year)

2002 Emissions	2011 Emissions
963	788

The provisions under 40 CFR 51.308(g)(3) require that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values:² (1) Current visibility conditions; (2) the difference between current visibility conditions and baseline visibility conditions; and (3) the change in visibility impairment over the past five years. The District does not have any Class I areas; therefore, no visibility data is required to be analyzed for this element.

² The “most impaired days” and “least impaired days” in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. 40 CFR 51.301.

The provisions under 40 CFR 51.308(g)(4) require an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory. In its progress report SIP, the District presents emissions inventories for 2002, 2008, and 2011, as well as projected inventories for 2018, in accordance with the requirements of 40 CFR 51.308(g)(4). The pollutants inventoried include VOCs, NO_x, PM_{2.5}, PM₁₀, NH₃, and SO₂. The emissions inventories include the following source classifications: stationary point and area sources, off-road and on-road mobile sources. The inventories that are compared for the five year span are 2008 to 2011. Although this time period does not encompass five years, the 2008 and 2011 inventories were the only comprehensive inventories available at the time the District prepared its progress report SIP revision. Table 3 presents the 2008, 2011, and projected 2018 emissions data. Comparison of 2008 and 2011 data shows decreases in all of the visibility impairing pollutants except for SO₂. But comparison of 2008, 2011, and projected 2018 data shows that there is an overall downward trend in SO₂ emissions. Additionally, the SO₂ emissions from point sources within the District have decreased since the 2002 base year. Table 4 presents the point source SO₂ emissions showing an overall downward trend in emissions since 2002.

Table 3. Pollutant Emissions (tons per year)

	2008 Emissions	2011 Emissions	2018 Emissions
SO ₂	1273	1829	769
PM ₁₀	5211	3410	1999
PM _{2.5}	1694	1361	508
NO _x	13205	9418	6491
VOC	11815	9195	8247
NH ₃	354	330	475

Table 4. Point Source SO₂ Emissions (tons per year)

2002 Emissions	2008 Emissions	2011 Emissions	2018 Emissions
963	343	788	564

EPA proposes to conclude that the District has adequately addressed the requirements under 40 CFR 51.308(g)(4). While, ideally, the five-year period to be analyzed for emissions inventory changes is the five-year time period between submittal of the current regional haze SIP and the progress report, availability of quality-assured data may not always correspond with this period. Therefore, EPA believes that there is some flexibility in the five-year time period states can select for tracking emissions changes to meet this requirement where more recent data is not available. EPA believes that the District presented an adequate analysis tracking emissions trends for the key visibility impairing pollutant, SO₂, since 2008 to reflect trends over an approximate five year period (from when initial regional haze SIPs were due to EPA under the CAA in 2007) using the emissions data available to the District. Even though there is an increase in SO₂ emissions between 2008 and 2011 within the District, these emissions are largely due to an increased combustion of fuel oil in the District. However, the SO₂ emissions are projected to decrease even further by 2018 as compared to the baseline 2002 emissions, as the District has implemented regulations to lower the sulfur content of fuel oil combusted in the District.³ EPA notes that with the closure of the District's only EGUs at Pepco's Benning Road, the District did not have access to further SO₂ or NO_x emissions data from EPA's Clean Air Markets Division which could have supplemented inventory analysis. EPA proposes to find that the District provided sufficient information to support the representativeness of the five-year period it evaluated. EPA proposes to find that the District has adequately addressed the provisions under

³ The District submitted its lower sulfur fuel oil regulations to EPA as a SIP revision on January 20, 2016. Because these regulations are already effective within the District, EPA expects SO₂ emissions from combustion of fuel oil to decrease by 2018.

40 CFR 51.308(g)(4) tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over five years.

The provisions under 40 CFR 51.308(g)(5) require an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources. The District's sources do not impact any Class I areas as was stated in the District's first regional haze SIP revision, which EPA approved on February 2, 2012 (77 FR 5191).⁴ In addition, the District does not have any Class I areas. Emissions reductions are discussed in EPA's analysis of the District's submittal to meet the provisions of 40 CFR 51.308(g)(4). Because the District demonstrated that there are no significant changes in emissions of visibility impairing pollutants that would impede visibility improvement in Class I areas and demonstrated emissions decreases in key visibility impairing pollutants by 2018 and because no Class I areas are impacted by emissions from within the District, EPA proposes to find that the District has adequately addressed the provisions under 40 CFR 51.308(g)(5).

The provisions under 40 CFR 51.308(g)(6) require an assessment of whether the current regional haze SIP is sufficient to enable the state, or other states, to meet the RPGs for Class I areas affected by emissions from the state. The District does not contain any Class I areas, and emissions from the District were found to not impact any Class I areas.⁵ As discussed previously, emissions of all visibility impairing pollutants have decreased since 2002. As

⁴ EPA notes that no state identified sources within the District as contributing to visibility impairment in Class I areas within their borders. *See* 77 FR 5191.

⁵ The District's progress report SIP did provide data for the Brigantine federal Class I area in New Jersey which showed Brigantine is on track to meet or exceed its RPGs by 2018. However, emissions from the District were not identified as contributing to visibility impairment in Brigantine and such information from the District was provided for illustrative purposes.

discussed in the District's progress report SIP, further reductions in visibility impairing pollutants, including SO₂ which is the primary contributor to visibility impairment in the Mid-Atlantic and Northeast states, are expected by the District from implementation of further pollution reducing measures affecting mobile sources and stationary sources including MACT standards and mobile source regulations. Although there are slight increases in NH₃, there is an overall downward trend when looking at all visibility impairing pollutants, especially SO₂, which was determined to be the primary contributor to visibility impairment in the District's first regional haze SIP. Therefore, EPA proposes to conclude that the District has addressed 40 CFR 51.308(g)(6) because its current regional haze SIP is sufficient to enable other nearby states to meet their RPGs, particularly as the District was not identified as contributing to any impairment in such Class I areas.

The provisions under 40 CFR 51.308(g)(7) require a review of a state's visibility monitoring strategy for visibility impairing pollutants and an assessment of whether any modifications to the monitoring strategy are necessary. The District does not contain any Class I areas. In its progress report SIP, the District states that there are no Class I areas within its boundaries, and therefore it is not required to fulfill this provision. EPA proposes to conclude that the District is exempt from addressing the requirements of 40 CFR 51.308(g)(7), as that requirement is solely for states with Class I areas in their borders.

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP. The following section summarizes: the action taken by the District under 40 CFR 51.308(h); the District's rationale for

the selected action; and EPA's analysis and proposed determination regarding the District's action.

In its progress report SIP, the District submitted a negative declaration that it had determined that the existing regional haze SIP requires no further substantive revision to achieve the RPGs for Class I areas (as the District does not have any Class I areas nor does it impact any Class I areas). The basis for the District's negative declaration is the findings from the progress report (as discussed in section III of this rulemaking action), including the findings that: SO₂ emissions from sources within the District have decreased; SO₂ emissions have been identified as the primary contributor to visibility impairment in the Mid-Atlantic and Northeast states; emissions of other visibility impairing pollutants (including NO_x, VOC, PM₁₀, PM_{2.5}) demonstrate a decreasing trend; and additional control measures not relied upon in the District's regional haze SIP, which are expected to yield further reduction in emissions of visibility impairing pollutants, have been and are being implemented.⁶

Thus, EPA proposes to conclude that the District adequately addressed the requirements of 40 CFR 51.308(h), because decreasing emissions of visibility impairing pollutants, lack of Class I area impact from pollution sources within the District, and progress of regional Class I areas near the District towards RPGs for 2018 indicate that no further revisions to the District's SIP are necessary for this first regional haze implementation period. EPA solicits comments on this proposal.

⁶ EPA notes that in reviewing progress report SIP submissions from other states, including Delaware, West Virginia and Virginia, the Agency has found that Class I areas in the Mid-Atlantic and Northeast region are on track to reach RPGs for the first implementation period, which ends in 2018. *See* 79 FR 25506 (May 5, 2014) (approval of Delaware's progress report SIP); 79 FR 25019 (May 2, 2014) (approval of Virginia's progress report SIP); and 80 FR 32019 (June 5, 2015) (approval of West Virginia's progress report SIP).

IV. EPA's Proposed Action

EPA is proposing to approve the District's regional haze five-year progress report SIP revision, submitted on March 2, 2016, as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

V. Incorporation by Reference

In this proposed rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the District of Columbia's progress report SIP. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region III Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

VI. 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. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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 CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, which proposes approval of the District's progress report SIP, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 5, 2017.

Cecil Rodrigues,
Regional Administrator,
Region III.

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