



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0267; FRL- 9965-73-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: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving 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 submittal 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). No comments were received in response to EPA's proposed rulemaking action published on May 30, 2017. EPA is approving the District's SIP submittal because EPA has determined that it satisfactorily addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2016-0267. All documents in the docket are listed on the [http:// www.regulations.gov](http://www.regulations.gov)

website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

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

SUPPLEMENTARY INFORMATION:

I. Background

On May 30, 2017 (82 FR 24617), EPA published a notice of proposed rulemaking (NPRM) for the District. In the NPRM, EPA proposed approval of the District’s regional haze five-year progress report SIP, a report on progress towards RPGs, for the first implementation period.

This progress report SIP and accompanying cover letter also included a determination that the District’s existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. No comments were received in response to EPA’s proposed rulemaking notice.

States were required to submit, in the form of a SIP revision, a progress report every five years 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). In addition, the provisions under 40

CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. On October 27, 2011, DOEE submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308 as they existed at the time. The progress report SIP revision was submitted by DOEE on March 2, 2016 and EPA finds that it satisfies the requirements of 40 CFR 51.308(g) and (h).

II. Summary of SIP Revision

On March 2, 2016, the District submitted a SIP revision to address progress made towards RPGs. This progress report SIP submittal also included a determination of the adequacy of the District's existing regional haze SIP.

The provisions in 40 CFR 51.308(g) require a progress report SIP to address seven elements. EPA finds that the District's progress report SIP addressed each element under 40 CFR 51.308(g). The seven elements and EPA's conclusion are briefly summarized later in this preamble; however, the detailed rationale for EPA's action is explained in the NPR and will not be restated here.

The provisions in 40 CFR 51.308(g) require progress reports SIPs to include a description of the status of measures in the approved regional haze SIP; a summary of emissions reductions achieved; an assessment of visibility conditions for each Class I area in the state; an analysis of changes in emissions from source and activities within the state; 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; an assessment of the sufficiency of the approved regional haze SIP; and a review of the state's visibility monitoring strategy. As

explained in detail in the NPR, EPA finds that the District's progress report SIP submittal addressed each element and has therefore satisfied the requirements under 40 CFR 51.308(g).

In addition, pursuant to 40 CFR 51.308(h), states are required to submit, at the same time as the progress report submission, 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. One possible action is submission of a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed. In its progress report, the District submitted a negative declaration that it had determined that the existing regional haze SIP requires no substantive revision to achieve the RPGs for Class I areas. As explained in detail in the NPR, EPA concludes that the District adequately addressed 40 CFR 51.308(h) because decreasing emissions of visibility impairing pollutants, lack of Class I area impact from pollution sources within the District,¹ 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. Therefore, EPA concludes that the District's progress report SIP meets the requirements of 40 CFR 52.308(h).

III. Final Action

In accordance with section 110 of the CAA, EPA is approving 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 (h).

IV. Statutory and Executive Order Reviews

¹ See 77 FR 5191, February 2, 2012 (discussing the District's lack of impacts on Class I areas).

A. General Requirements

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 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 rule 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.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve the District's regional haze five-year progress report SIP revision may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: July 21, 2017.

Cecil Rodrigues,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart J—District of Columbia

2. In § 52.470, the table in paragraph (e) is amended by adding an entry entitled “Regional Haze Five-Year Progress Report” to the end of the table to read as follows:

§ 52.470 Identification of plan.

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(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* *	* *	*	
Regional Haze Five-Year Progress Report.	District of Columbia	03/02/16	[<u>Insert date of publication in the Federal Register</u>], [<u>Insert Federal Register citation</u>]	Addresses requirements of 40 CFR 51.308(g) and (h) for Regional Haze Five-Year Progress Report.

[FR Doc. 2017-16821 Filed: 8/9/2017 8:45 am; Publication Date: 8/10/2017]