



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2015-0498; FRL-9968-64-Region 2]

Approval and Promulgation of Implementation Plans; New York;  
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 New York's regional haze progress report, submitted on June 16, 2015, as a revision to its State Implementation Plan (SIP). New York's SIP revision addresses requirements of the Clean Air Act and the EPA's rules that require each state to submit periodic reports describing progress towards reasonable progress goals established for regional haze and a determination of the adequacy of the state's existing regional haze SIP. The EPA is approving New York's determination that the State's regional haze SIP is adequate to meet these reasonable progress goals for the first implementation period which extends through 2018.

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. **EPA-R02-OAR-2015-0498**. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web

site. Although listed in the index, some information is not publicly available, e.g., confidential business information 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 [www.regulations.gov](http://www.regulations.gov), or please contact the person identified in the "For Further Information Contact" section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch,  
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#### SUPPLEMENTARY INFORMATION:

##### **I. Background**

Under the Regional Haze Rule,<sup>1</sup> each state was required to submit its first implementation plan addressing regional haze visibility impairment to the EPA no later than December 17, 2007. *See* 40 CFR 51.308(b). New York submitted its regional haze plan on March 15, 2010. On August 28, 2012, the EPA approved New York's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze. 77 FR 51915 (Aug. 28, 2012).

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<sup>1</sup> 40 CFR part 51, subpart P.

Each state is also required to submit a progress report, in the form of a SIP revision that evaluates progress towards the reasonable progress goals (RPGs) for each mandatory Class I Federal area within the state and for 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). Each state is also required to submit, at the same time as the progress report, a determination of the adequacy of its existing regional haze SIP. *See* 40 CFR 51.308(h). The first progress report was due five years after submittal of the initial regional haze SIP.

On June 16, 2015, New York submitted to the EPA, as a revision to its SIP, a report on progress made towards the RPGs for Class I areas outside the State that are affected by emissions from sources within the State. There are no Class I areas in New York State. In its progress report SIP, New York concludes the elements and strategies relied on in its original regional haze SIP are sufficient for neighboring states affected by emissions from New York to meet all established RPGs. In a notice of proposed rulemaking (NPRM) published on August 1, 2017 (82 FR 35738), the EPA proposed to approve New York's progress report as satisfying the requirements of 40 CFR 51.308(g) and 51.308(h). No comments were received on the August 1, 2017 proposed rulemaking.

## **II. Final Action**

EPA is finalizing approval of New York's Regional Haze Progress Report SIP revision, submitted by New York on June 16, 2015, as meeting the requirements of 40 CFR 51.308(g) and 51.308(h).

### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. 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 Clean Air Act; 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.

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: 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 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 19, 2017.

Catherine R. McCabe,  
Acting Regional Administrator,  
Region 2.

Part 52 chapter I, title 40 of the Code of Federal Regulations 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 HH - New York**

2. In §52.1670(e) the table titled “EPA APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS” is amended by adding the entry “Regional Haze Five-Year Progress Report” at the end of the table to read as follows:

**§52.1670 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

SIP Element	Applicable Geographic or Nonattainment Area	New York Submittal Date	EPA Approval Date	Explanation
* * * * *				
Regional Haze Five-Year	State-wide	June 16, 2015	[Insert date of	

Progress Report			publication and Federal Register page citation]	
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[FR Doc. 2017-20823 Filed: 9/28/2017 8:45 am; Publication Date: 9/29/2017]