



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2024-0609; FRL-12596-02-R8]

Air Plan Approval; South Dakota; Regional Haze Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a regional haze state implementation plan (SIP) revision submitted by the State of South Dakota on July 29, 2022 (South Dakota's 2022 SIP submission), as satisfying applicable requirements under the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR) for the program's second implementation period. The EPA is taking this action pursuant to CAA.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2024-0609. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., 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: Joe Stein, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (303) 312-7078; email address: stein.joseph@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

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I. What is being addressed in this document?

The EPA is approving a SIP revision submitted by the State of South Dakota to the EPA on July 29, 2022, addressing the requirements of the second implementation period of the RHR. As required by section 169A of the CAA, the Regional Haze Rule (RHR) calls for state and federal agencies to work together to improve visibility in 156 national parks and wilderness areas. The rule requires the states, in coordination with the EPA, the National Park Service (NPS), Fish and Wildlife Service (FWS), the Forest Service (FS), and other interested parties, to develop and implement air quality protection plans to reduce the pollution that causes visibility impairment in mandatory Class I Federal areas. 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 (SO₂), oxides of nitrogen (NO_x), and, in some cases, volatile organic compounds (VOC) and ammonia (NH₃)). As discussed in further detail in our proposed rule, this document, and the accompanying Response to Comments (RTC) document, the EPA finds that South Dakota submitted a regional haze SIP that meets all of the regional haze requirements for the second implementation period. The State’s submission, the proposed rule, and the RTC document can be found in the docket for this action.

II. Background

On April 28, 2022, South Dakota submitted a revision to its SIP to address its regional haze obligations for the second implementation period (2018-2028). South Dakota made this

revision to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 Code of Federal Regulations (CFR) 51.308.

On May 14, 2025, the EPA proposed to approve South Dakota's 2022 SIP submission.¹ Specifically, the EPA proposed to approve South Dakota's 2022 SIP submission as satisfying the requirements of 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress; 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. Our public comment period closed on June 13, 2025.

The May 14, 2025 proposed rule provided background on the requirements of the CAA and RHR, a summary of South Dakota's regional haze SIP submittals and related EPA actions, and the EPA's rationale for its proposed action. That background and rationale will not be restated here. For the reasons stated in the proposed rule, this document, and in the accompanying RTC document, the EPA concludes that South Dakota's 2022 SIP submission meets the requirements of the CAA and RHR.

III. Public Comments and EPA Responses

The public comment period on the proposal closed on June 13, 2025. During the public comment period, we received 11 comments on our proposal; nine sets of comments in support and two sets in opposition. The commenters were: Conservation Groups,² the Mid-Atlantic/Northeast Visibility Union (MANEVU),³ Montana-Dakota Utilities,⁴ Nebraska Dept. of

¹ 90 FR 20425 (May 14, 2025).

² Letter dated June 6, 2025.

³ Letter dated June 13, 2025.

⁴ Letter dated June 13, 2025.

Environment and Energy,⁵ Otter Tail Power Company,⁶ Power Generators Air Coalition,⁷ South Dakota Department of Agriculture and Natural Resources,⁸ State of Nebraska Office of the Attorney General,⁹ Utah Department of Environmental Quality,¹⁰ Utilities for Reasonable Progress,¹¹ and Wyoming Department of Environmental Quality.¹² The full text of comments received is included in the publicly posted docket associated with this action at <https://www.regulations.gov>. Our RTC document, which is also included in the docket associated with this action, provides detailed responses to all significant comments received.

IV. Final Action

For the reasons stated in the preamble to the proposed rule, in the RTC document, and in this document, we are approving South Dakota's 2022 SIP submission. Specifically, we are approving South Dakota's 2022 SIP submission relating to CAA 169A:

- Calculations of baseline, current, and natural visibility conditions, progress to date, and uniform rate of progress (40 CFR 51.308(f)(1));
- Long-term strategy (40 CFR 51.308(f)(2));
- Reasonable progress goals (40 CFR 51.308(f)(3));
- Reasonably attributable visibility impairment (40 CFR 51.308(f)(4));
- Progress report requirements (40 CFR 51.308(f)(5) and 40 CFR 51.308(g));
- Monitoring strategy and other implementation plan requirements (40 CFR 51.308(f)(6));
- FLM consultation (40 CFR 51.308(i)).

V. Statutory and Executive Order Reviews

⁵ Letter dated June 3, 2025.

⁶ Letter dated June 12, 2025.

⁷ Letter dated June 13, 2025.

⁸ Letter dated June 13, 2025.

⁹ Letter dated June 13, 2025.

¹⁰ Letter dated June 11, 2025.

¹¹ Letter dated June 13, 2025.

¹² Letter dated June 13, 2025.

Under the CAA, 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because State Implementation Plan approvals under the CAA are exempt from review 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, 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);

- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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).

This action is subject to the Congressional Review Act (CRA), and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: ___August 19, 2025__.

Cyrus M. Western,
Regional Administrator,
Region 8.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 40 CFR part 52 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 QQ—South Dakota

2. In § 52.2170, the table in paragraph (e) is amended by adding the entry “XXVIII. South Dakota Regional Haze State Implementation Plan” at the end of the table to read as follows:

§ 52.2170 Identification of plan.

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(e) * * *

Rule title	State effective date	EPA effective date	Final rule citation, date	Comments
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XXVIII. South Dakota Regional Haze State Implementation Plan	4/21/2022	[insert date 30 days after date of publication in the Federal Register]	90 FR [insert Federal Register page where the document begins], [insert date of publication in the Federal Register]	