



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2025-0142; FRL-12778-02-R1]

Air Plan Approval; Vermont; Regional Haze State Implementation Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont on July 1, 2024, as satisfying applicable requirements under the Clean Air Act (CAA) and EPA's Regional Haze Rule for the program's second implementation period. Vermont's SIP submission addresses the requirement that states must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas. The SIP submission also addresses other applicable requirements for the second implementation period of the regional haze program. This action is being taken in accordance with the Clean Air Act.

DATES: This 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 Identification No. **EPA-R01-OAR-2025-0142**. All documents in the docket are listed on the

<https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., 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 at

https://www.regulations.gov or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

FOR FURTHER INFORMATION CONTACT: Ayla Martinelli, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 5-MI), Boston, MA 02109 - 3912, tel. (617) 918-1057, email martinelli.ayla@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On May 23, 2025 (90 FR 22033), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Vermont. The NPRM proposed approval of the second implementation period regional haze requirements contained in CAA sections 169A and 169B and 40 CFR 51.308. The formal SIP revision was submitted by Vermont on July 1, 2024. EPA is now finalizing its proposed determination that the Vermont regional haze SIP submission for the second implementation period meets the applicable statutory and regulatory requirements and is thus approving Vermont’s submission into its SIP. Other specific requirements of the Vermont submittal and the rationale for EPA's proposed action is explained in the NPRM and will not be restated here. Two public comments were received on the NPRM.

II. Response to Comments

EPA received two comments during the comment period. Both comments supported EPA’s proposed action to approve Vermont’s Regional Haze Plan submission. However, the comment from MANEVU also objected to EPA’s recently adopted policy referenced in the NPRM

regarding the “Uniform Rate of Progress” (URP). Below, EPA provides a response to that aspect of MANEVU’s comment.

Comment: MANEVU states that section 169A(g)(1) of the Clean Air Act (CAA) sets forth the four factors a state must apply in evaluating potential emission reductions from sources within its borders. They then note that the EPA in its new policy “now invokes an extra-statutory fifth factor, the Uniform Rate of Progress (URP)” which “[a]s framed by the EPA, . . . can override a statutory four factor analysis finding that while additional requirements placed on visibility-impairing sources constitute ‘reasonable progress,’ these can be dismissed because the impacted Class I area is below the URP.” The Commenters note that “[b]ecause the URP is a regulatory creation outside the CAA section 169A(g)(1) definition of determining reasonable progress, . . . the URP as a factor to override a statutory four factor analysis is not permissible.” Commenters state that “CAA section 169A(g)(1) explicitly defines how to determine reasonable progress, and the EPA has received no authority from Congress to impose an additional overriding regulatory criterion that goes beyond the statutory factors [*see, e.g., Loper Bright Enterprises, et al. v. Raimondo, et al.* 603 U.S. 369 (2024)].”

Response: As MANEVU recognizes, Vermont’s Regional Haze submission satisfies Clean Air Act requirements.¹ The EPA disagrees, however, with MANEVU’s comment that the URP policy articulated in our proposed approval of Vermont’s submission allows states and EPA to override a statutory four-factor analysis to determine how to make reasonable progress toward the national visibility goal in the second planning period. CAA section 169A(b)(2) requires SIPs to “contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward the national visibility goal” and 169A(g)(1) requires that “in determining reasonable progress there shall be taken into consideration the costs of compliance, the time necessary for compliance, and the energy and nonair quality

¹ MANEVU noted that “approval of Vermont’s haze SIP is justified solely on the basis of the four statutory factors without resort to an impermissible fifth factor not found in the statute.”

environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.” Vermont considered the four statutory factors, as required by the Act, and EPA did not dismiss the state’s four factor analysis. Additionally, as EPA noted in the NPRM, the Class I areas affected by emissions from Vermont remain below their respective URPs.

III. Final Action

EPA is approving Vermont’s July 1, 2024, submittal as a revision to the Vermont SIP, satisfying the regional haze requirements for the second implementation period contained in 40 CFR 51.308(f), (g), and (i).

IV. 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 Clean Air 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions 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, 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 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); and
- 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.

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).

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 **[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, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: October 6, 2025.

Mark Sanborn,
Regional Administrator,
EPA Region 1.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations 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 UU - Vermont

2. In § 52.2370, amend the table in paragraph (e) by adding an entry for “Vermont Regional Haze Plan Periodic Comprehensive Revision for 2nd planning period 2018-2028” to the end of the table to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(e) * * *

Vermont Non-Regulatory

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
**	*	*	*	**
Vermont Regional Haze Plan Periodic Comprehensive Revision for 2 nd planning period 2018-2028	Statewide	Submitted 7/1/2024	[Insert date of publication in the <u>Federal Register</u>], 90 FR [Insert Federal Register page where the document begins]	Approves full plan.

[FR Doc. 2025-20141 Filed: 11/17/2025 8:45 am; Publication Date: 11/18/2025]