



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2016-0626; A-1-FRL- 9972-20-Region 1]

Air Plan Approval; Vermont; Regional Haze Five-Year Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Vermont's Regional Haze Five-Year Progress Report (Progress Report), submitted on February 29, 2016 as a revision to its State Implementation Plan (SIP). Vermont's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing the progress toward reasonable progress goals (RPGs) established for regional haze and a determination of adequacy of the State's existing regional haze SIP. EPA is approving Vermont's Progress Report on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period covering through 2018.

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-2016-0626. All documents in the docket are listed on the <http://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 <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 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. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Anne K. McWilliams, Air Quality Planning Unit, U.S. Environmental Protection Agency, New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912, telephone (617) 918-1697, facsimile (617) 918-0697, email mcwilliams.anne@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 August 16, 2017, EPA proposed to approve Vermont's Regional Haze Five-Year Progress Report. *See* 82 FR 38864. The Progress Report was submitted by Vermont as a State Implementation Plan (SIP) revision on February 29, 2016. In conjunction with the August 16, 2017 notice of proposed rulemaking (NPR), EPA issued a direct final rule (DFR) approving the Vermont Progress Report. *See* 82 FR 38834. In the DFR, EPA stated that if an adverse comment were to be submitted to EPA by September 15, 2017, the action would be withdrawn and not take effect, and a final rule would be issued based on the NPR. EPA received one adverse comment prior to the close of the comment period. Therefore, EPA withdrew the DFR on October 13, 2017. *See* 82 FR 47630. Today's action is a final rule based on the NPR.

A detailed discussion of Vermont's February 29, 2016 SIP revision and EPA's rationale for approving the SIP revision were provided in the DFR and will not be restated here, except to the extent relevant to our response to the public comment we received.

II. Response to Comment.

EPA received one adverse comment on its proposed approval of the Vermont Progress Report.

Comment: The commenter stated that Vermont should have considered visibility effects on parks in Canada and ocean marine sanctuaries.

Response: In section 169A(a)(1) of the 1977 Amendment to the Clean Air Act (CAA), Congress created a program for protecting visibility in certain of the nation's national parks and

wilderness areas. This section on the CAA establishes as a national goal the “prevention of any future, and remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.” Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977 (42 U.S.C. 7472(a)). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. *See* 44 FR 69122, November 30, 1979. The requirements of the visibility program set forth in section 169A of the CAA apply only to these “mandatory Class I Federal areas.” When we use the term “Class I area” in this and other regional haze actions, we mean a “mandatory Class I Federal area” where visibility has been identified as an important value.

The list of 156 areas includes Roosevelt/Campobello International Park (RCIP) located in New Brunswick, Canada. The Vermont Regional Haze Plan for the first planning period affirmed that emissions from Vermont did not contribute to the visibility impairment at this Class I area. *See* 77 FR 11914, February 28, 2012. The Vermont Progress Report confirms, however, that not only has the state reduced visibility impairing emissions consistent with its regional haze SIP, but that the reasonable progress goals for RCIP for the first regional haze planning period have already been met.¹

¹ Visibility impairment is measured by monitors in the Interagency Monitoring of Protected Visual Environments (IMPROVE) program. Due to the proximity of the Moosehorn Wilderness Area IMPROVE monitor to RCIP, the Moosehorn monitor is considered representative of visibility at RCIP. More discussion of the visibility status of RCIP can be found in EPA’s proposed approval of the Maine Regional Haze 5-Year Progress Report. *See* 82 FR 33471, July 20, 2017.

Based on the requirements of section 169A of the CAA, EPA finds that the Progress Report appropriately considered the visibility status of nearby Class I areas, including that of the Roosevelt/Campobello International Park in Canada. There are no nearby marine sanctuaries identified as Class I areas.

III. Final Action.

EPA is approving Vermont's Regional Haze Five-Year Progress Report SIP revision, submitted by VT DEC on February 29, 2016, as meeting the applicable regional haze requirements set forth in 40 Code of the Federal Regulations (CFR) 51.308(g) and (h).

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 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, 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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 from date of publication of this document 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 6, 2017.

Ken Moraff,
Acting Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - [AMENDED]

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, the table in paragraph (e) is amended by adding an entry for “Vermont Regional Haze Five-Year Progress Report” at the end of the table to read as follows:

§ 52.2370 Identification of plan.

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(e) * * *

Vermont Non-Regulatory

| Name of non-regulatory SIP provision | Applicable geographic or nonattainment area | State submittal date/effective date | EPA approval date | Explanation |
|---|---|-------------------------------------|--|-------------|
| ** | * | * | * | ** |
| Vermont Regional Haze Five-Year Progress Report | Statewide | Submitted 2/29/2016 | [Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation] | |