

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R02-OAR-2016-0413; FRL-9968-63-Region 2]

Approval and Promulgation of Implementation Plans; New Jersey; 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 Jersey's regional haze progress report, submitted on June 28, 2016, as a revision to its State Implementation Plan (SIP). New Jersey'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 Jersey'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 October 30, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2016-0413. All documents in the docket are listed on the 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, 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, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637-3381 or wieber.kirk@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

Under the Regional Haze Rule,¹ 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 Jersey submitted its regional haze plan on July 28, 2009. On January 3, 2012, the EPA approved New Jersey's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze. 77 FR 19 (Jan. 3, 2012).

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 progress report SIP was due five years after submittal of the initial regional haze SIP.

On June 28, 2016, New Jersey submitted to the EPA, as a revision to its SIP, a report on progress made towards the RPGs for Class I areas in the State and for Class I areas outside the State that are affected by emissions from sources within the State. In its progress report SIP, New Jersey concludes the elements and strategies relied on in its original regional haze SIP are sufficient to enable New Jersey and neighboring states to meet all established RPGs. In a notice of proposed rulemaking (NPRM) published on August 1, 2017 (82 FR 35734), the EPA proposed to approve New Jersey'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 Jersey's Regional Haze Progress Report SIP revision, submitted by New Jersey on June 28, 2016, 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 (Pub. L. 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,

¹ 40 CFR part 51, subpart P.

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 November 28, 2017. 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 FF—New Jersey

■ 2. In § 52.1570(e), the table titled “EPA APPROVED NEW JERSEY 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:

§ 52.1570 Identification of plan.

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 (e) * * *

EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Regional Haze Five-Year Progress Report.	State-wide	June 28, 2016	September 29, 2017, [Federal Register page citation].	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0362; FRL–9968–10–Region 4]

Air Plan Approval; North Carolina Miscellaneous Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving several changes to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), on December 14, 2004, and March 1, 2016. The March 1, 2016, submission adds a new rule to the “Exclusionary Rules” of the North Carolina SIP, and the portion of the December 14, 2004, submission EPA is approving adds two new rules under a new section called “Permit Exemptions.” This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule will be effective October 30, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2016–0362. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, *i.e.*, 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 either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 2004, and March 1, 2016, the State of North Carolina, through NCDEQ, submitted revisions to the North Carolina SIP. The March 1, 2016, submission which adds a new rule—15A NCAC 02Q .0809 *Concrete Batch Plants*—and a portion of the December 14, 2004, submission which adds two new rules—15A NCAC 02Q .0901, *Purpose and Scope* and .0902 *Portable Crushers*. In a proposed rulemaking published on July 10, 2017 (82 FR 31739), EPA proposed to approve these SIP revisions. The details of North Carolina’s SIP revision and the rationale for EPA’s action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before August 9, 2017. EPA did not receive any comments on the proposed action.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of North Carolina Rules 15A NCAC 02Q .0809 entitled “*Concrete Batch Plants*” effective April 1, 2004, a new exclusionary rule for concrete batch that excludes from Title V permitting requirements such