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[FR Doc. 2017-22358 Filed 10-13-17; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0185; FRL-9969-62-Region 5]

Air Plan Approval; Ohio; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Ohio State Implementation Plan (SIP) submitted by the State of Ohio (Ohio) through the Ohio Environmental Protection Agency (OEPA). Ohio's SIP revision addresses the requirements of the Clean Air Act (CAA) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze, and a determination of the adequacy of the state's existing implementation plan addressing regional haze (regional haze SIP). EPA is proposing approval of the Ohio SIP revision on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: Comments must be received on or before November 15, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0185 at <http://www.regulations.gov> or via email to Aburano.Douglas@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. EPA's Analysis of Ohio's Regional Haze Progress Report and Adequacy Determination
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

I. Background

States are required to submit a progress report that evaluates progress towards the RPGs for each Class I Federal area¹ (Class I area) within the state and in each Class I area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. *See* 40 CFR 51.308(h). The first progress report must be submitted in the form of a SIP revision and is due five years after the submittal of the initial regional haze SIP. On March 11, 2011, OEPA submitted its first regional haze SIP in accordance with the requirements of 40 CFR 51.308.

On March 11, 2016, Ohio submitted as a SIP revision a report on the progress made in the first implementation period towards the RPGs for Class I areas that are affected by emissions from the state of Ohio (progress report). This progress

report included a determination that Ohio's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is proposing to approve Ohio's progress report on the basis that it satisfies the requirements of 40 CFR 51.308.

II. EPA's Analysis of Ohio's Regional Haze Progress Report and Adequacy Determination

On March 11, 2016, OEPA submitted a revision to Ohio's regional haze SIP to address progress made in the first planning period towards RPGs for Class I areas that are affected by emissions from Ohio's sources. This progress report also included a determination of the adequacy of the state's existing regional haze SIP.

Ohio has no Class I areas within its borders. Emissions from sources in Ohio contribute to the visibility impairment in the following Class I areas: Caney Creek Wilderness Area (Arkansas), Upper Buffalo Wilderness Area (Arkansas), Great Gulf Wilderness Area (New Hampshire), Presidential Range-Dry River Wilderness Area (New Hampshire), Brigantine Wilderness Area (New Jersey), Great Smoky Mountains National Park (North Carolina, Tennessee), Mammoth Cave National Park (Kentucky), Acadia National Park (Maine), Moosehorn Wilderness Area (Maine), Seney Wilderness Area (Michigan), Hercules-Glades Wilderness Area (Missouri), Mingo Wilderness Area (Missouri), Lye Brook Wilderness (Vermont), James River Face Wilderness (Virginia), Shenandoah National Park (Virginia), and Dolly Sods/Otter Creek Wilderness (West Virginia).

In developing a long term strategy (LTS) for ensuring reasonable progress towards improving visibility, Ohio participated with other states and tribes through the Midwest Regional Planning Organization (MRPO). Additionally, Ohio consulted with the Mid-Atlantic/Northeast Visibility Union (MANE-VU), and Federal Land Managers (FLMs) as a part of developing its initial SIP. The original Ohio regional haze SIP determined that “on-the-books” controls would constitute the measures necessary to address Ohio's contribution to visibility impairment in the Class I areas to which Ohio contributes. This was supported by modeling assessments from the MRPO and in consultation with other states and Regional Planning Organizations (RPOs).

A. Regional Haze Progress Report SIPs

The following section includes EPA's analysis of Ohio's progress report

¹ 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)). Listed at 40 CFR part 81 subpart D.

submittal and an explanation of the basis of our proposed approval.

1. Status of Implementation of All Measures Included in the Regional Haze SIP

In its progress report, Ohio summarizes the status of the emissions reduction measures that were included in its 2011 regional haze SIP, specifically, the status of the on-the-books emissions reduction measures. Details of the measures and implementation for various on-highway mobile sources, off-highway mobile sources, area sources, and point sources are set forth in Section II.A of the progress report.

In its regional haze SIP, Ohio relied on the Clean Air Interstate Rule (CAIR) to meet the sulfur dioxide (SO₂) and nitrogen oxides (NO_x) best available retrofit technology (BART) requirements for its electric generating units (EGUs) as well as to ensure reasonable progress. Ohio's progress report describes the litigation regarding CAIR and Cross-State Air Pollution Rule (CSAPR) that has had a substantial impact on EPA's review of the regional haze SIPs of many states.

In 2005, EPA issued regulations allowing states to rely on CAIR to meet certain requirements of the Regional Haze Rule. *See* 70 FR 39104 (July 6, 2005).² A number of states, including Ohio, submitted regional haze SIPs consistent with these regulatory provisions. CAIR, however, was remanded (without vacatur) to EPA in 2008, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008), and replaced by CSAPR. 76 FR 48208 (August 8, 2011). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of December 30, 2011, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11–1302.

EPA finalized a limited approval of Ohio's regional haze SIP on July 2, 2012. 77 FR 39177. In a separate action, published on June 7, 2012, EPA finalized a limited disapproval of the Ohio regional haze SIP because of the

state's reliance on CAIR to meet certain regional haze requirements, and issued a Federal Implementation Plan (FIP) to address the deficiencies identified in the limited disapproval of Ohio and other states' regional haze plans. 77 FR 33642. In our FIP, we relied on CSAPR to meet certain regional haze requirements notwithstanding that it was stayed at the time. Following additional litigation and the lifting of the stay, EPA began implementation of CSAPR on January 1, 2015.

Regarding the status of BART and reasonable progress control requirements for non-EGU sources in the state, Ohio's progress report notes that two boilers at one facility, operated by the P.H. Glatfelter Company, were the only non-EGU emission units subject to the BART requirements in Ohio. BART requirements at the P.H. Glatfelter facility reflected alternative measures, which were incorporated into a Federally enforceable permit on March 7, 2011, and the compliance date for these requirements was January 31, 2017. Also, P.H. Glatfelter is currently pursuing conversion to natural gas at its facility to comply with the EPA Industrial Boiler Maximum Achievable Control Technology (MACT) requirements, in the end, this will bring further reductions beyond the BART requirements.

Additionally, as part of Ohio's consultation with MANE–VU,³ MANE–VU identified 28 stacks from 14 sources in Ohio contributing to visibility impairment based on 2002 emissions. In Ohio's regional haze SIP, the state declined to “commit to any particular course of action beyond the collaboration that occurred in 2009.” Ohio noted, however, that utilities within the state had made significant progress in installing the SO₂ controls requested by MANE–VU. In the progress report, and subsequent letter to EPA dated July 11, 2017, Ohio indicated that 27 of the 28 identified units have either shut down or installed post-combustion emission control for SO₂ emissions. The final unit does not have a scrubber installed, but to comply with the SO₂ Data Requirements Rule (80 FR 51052,

August 21, 2015) has accepted a Federally enforceable emission limit.

EPA proposes to conclude that Ohio has adequately addressed the status of control measures in its regional haze SIP. Ohio describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, the status of measures from on-the-book controls and the status of control measures applied to stacks identified by MANE–VU.

2. Summary of Emissions Reductions Achieved in the State Through Implementation of Measures

In its progress report, Ohio summarizes the status of the emissions reduction measures that were included in its 2011 regional haze SIP, specifically, the status of the on-the-books emissions reduction measures on which the state relied. Ohio also notes the conclusion in its original regional haze SIP that the majority of visibility-impairing point source emissions in the State come from EGUs. The original SIP showed dramatic reductions in projected emissions from EGUs due to CAIR. Ohio's progress report accordingly discusses the implementation of CAIR and its successor, CSAPR.⁴ The other measures addressed in the progress report include on- and off-highway mobile source rules, area source rules, and Title IV programs.

As described above, throughout the litigation surrounding CAIR and CSAPR, EPA continued to implement CAIR. Thus, CAIR was in effect through the end of 2014. Ohio explained in its progress report that with CAIR remaining in effect throughout this process, Ohio has acted in accordance with the CAIR program, as determined by the Ohio Regional Haze SIP, resulting in emissions reductions from its EGUs. Data from the EPA Clean Air Markets Division shows NO_x emissions from EGUs in Ohio decreased from 370,497 tons per year (TPY) in 2002 to 89,345 TPY in 2014, a 76% decrease. SO₂ from EGUs in Ohio decreased from 1,132,069 TPY in 2002 to 290,402 TPY in 2014, a 75% decrease. Table 1 below shows the annual reductions of SO₂ and NO_x for Ohio. These decreases were a result of CAIR and other implementation strategies. Ohio further concluded that

² CAIR required certain states like Ohio to reduce emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) that significantly contribute to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM_{2.5}) and ozone. *See* 70 FR 25162 (May 12, 2005).

³ MANE–VU is a collaborative effort of State governments, Tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the Northeastern United States. Member State and Tribal governments include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Penobscot Indian Nation, Rhode Island, St. Regis Mohawk Tribe, and Vermont.

⁴ CSAPR was issued by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. *See* 76 FR 48208 (August 8, 2011) (final rule). CSAPR requires substantial reductions of SO₂ and NO_x emissions from EGUs in 28 states in the Eastern United States that significantly contribute to downwind nonattainment of the 1997 PM_{2.5} and ozone NAAQS and 2006 PM_{2.5} NAAQS.

with CSAPR now being implemented, additional reductions in emissions from Ohio EGUs would result because the CSAPR budgets are more stringent than under CAIR. *See* 80 FR 75706.

TABLE 1—ACTUAL SO₂ AND NO_x EMISSIONS

Year	SO ₂ (tons)	NO _x (tons)
2002	1,132,069	370,497
2003	1,175,905	359,285
2004	1,091,520	270,449
2005	1,085,485	258,222
2006	962,288	241,995
2007	954,646	240,722
2008	709,444	237,585
2009	600,692	97,562
2010	572,164	108,048
2011	575,474	103,591
2012	323,977	84,281
2013	282,195	86,619
2014	290,403	89,345

3. Assessment of Visibility Conditions and Changes for Each Mandatory Class I Federal Area in the State

Ohio noted in its progress report that it does not have any Class I areas within its boundaries, and as the applicable provisions pertain only to states containing Class I areas, no further discussion is necessary. EPA concurs, and proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308(g).

4. Analysis Tracking Emissions Changes of Visibility-Impairing Pollutants

In its progress report, Ohio tracked changes in emissions of visibility-impairing pollutants using a base year inventory of 2005 and the 2011 National Emissions Inventory, the most recent updated inventory of actual emissions for the state at the time that it developed the progress report. For both years, pollutants inventoried include NO_x, fine particulate matter (PM_{2.5}), coarse

particulate matter (PM₁₀), ammonia (NH₃), and SO₂. The emissions inventories, include all point, nonpoint, on-road, non-road, marine-aircraft-rail (MAR), and other sources.

Table 2 below shows the progress made from 2005–2011 toward the projected 2018 emission reductions indicated in the 2011 Ohio regional haze SIP submission. In the 2005 inventory, SO₂ emissions were 1,241,414 TPY and the reduction projected by 2018 was 799,830 TPY for an annual SO₂ emission of 441,584 TPY. In 2011, SO₂ emissions had already decreased by 563,523 TPY, or achieved 70 percent of the expected reduction. With the exception of NH₃, which Ohio predicted to increase during the first implementation period (it actually decreased), all other pollutants at the time of the progress report had achieved more than 50 percent of the expected 2018 emissions reductions.

TABLE 2—EMISSIONS REDUCTIONS—2005 TO 2011 VS. PROJECTED 2018 REDUCTIONS (TPY)

	VOC	NO _x	PM _{2.5}	PM ₁₀	NH ₃	SO ₂
2005 to 2018 expected reduction	151,522	392,994	3,521	4,497	– 10,028	799,830
2005 to 2011 reduction	86,950	266,969	14,996	19,214	19,775	563,523
% toward 2018 RPG	57	68	426	427	N/A	70

EPA proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308.

5. Assessment of Any Significant Changes in Anthropogenic Emissions

In its progress report, Ohio indicated that no significant changes in anthropogenic emissions have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Ohio sources. The state referenced its analyses in the progress report identifying an overall downward trend in these emissions.

EPA proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308.

6. Assessment of Whether the Implementation Plan Elements and Strategies Are Sufficient To Enable Other States To Meet RPGs

In its progress report, Ohio concludes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Ohio and states where Ohio contributes to visibility impairments to meet all the established RPGs. To support this conclusion, Ohio

notes that Kentucky,⁵ Maine,⁶ North Carolina,⁷ Virginia,⁸ and West Virginia⁹ prepared progress reports demonstrating that visibility is improving at Class I areas and according to these reports Ohio is not interfering with the ability of these states to meet reasonable progress goals.

Ohio's long term strategy relied heavily on the emission reductions from CAIR, a program that has now been replaced by CSAPR. At the present time, the requirements of CSAPR apply to sources in Ohio under the terms of a FIP. The Regional Haze Rule requires an assessment of whether the current “implementation plan” is sufficient to enable the states to meet all established reasonable progress goals. 40 CFR

⁵ <https://www.federalregister.gov/documents/2017/08/07/2017-16484/air-plan-approval-kentucky-regional-haze-progress-report>.

⁶ <https://www.federalregister.gov/documents/2017/07/20/2017-15266/air-plan-approval-me-regional-haze-5-year-progress-report>.

⁷ <https://www.federalregister.gov/documents/2016/08/25/2016-20309/air-plan-approval-north-carolina-regional-haze-progress-report>.

⁸ <https://www.federalregister.gov/articles/2014/05/02/2014-10110/air-plan-approval-and-promulgation-of-implementation-plans-virginia-regional-haze-five-year-progress-report>.

⁹ <https://www.federalregister.gov/articles/2015/06/05/2015-13801/air-plan-approval-and-promulgation-of-implementation-plans-west-virginia-regional-haze-five-year-progress>.

51.308(g). The term “implementation plan” is defined for purposes of the Regional Haze Rule to mean “any [SIP], [FIP], or Tribal Implementation Plan.” 40 CFR 51.301. EPA is, therefore, proposing to determine that we may consider measures in any issued FIP, as well as those in a state's regional haze SIP, in assessing the adequacy of the “existing implementation plan” under 40 CFR 51.308(g)(6) and (h).

EPA proposes to conclude that Ohio has adequately addressed the applicable provisions of 40 CFR 51.308. EPA views this requirement as an assessment that should evaluate emissions and visibility trends and other readily available information. Ohio determined its regional haze SIP is sufficient to enable other States to meet the RPGs for the Class I areas impacted by the State's emissions.

7. Review of the State's Visibility Monitoring Strategy

Ohio's progress report states there are no Class I areas within its borders and is not required to have a visibility monitoring strategy in place. EPA concurs, and proposes to conclude that Ohio has adequately addressed the requirements for a monitoring strategy for regional haze and propose to

determine no further modifications to the monitoring strategy are required.

B. Determination of Adequacy of Existing Regional Haze Plan

In its progress report, Ohio submitted a negative declaration to EPA regarding the need for additional actions or emission reductions in Ohio beyond those already in place and those to be implemented by 2018 according to Ohio's regional haze plan.

In the 2016 progress report submittal, Ohio determined the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the State's sources. The basis for the State's negative declaration is the finding that visibility has improved at all Class I areas in the MANE-VU region. In addition, SO₂, NO_x, and PM emissions from the latest emission inventory for Ohio have decreased by more than 50% in the five-year time period, indicating that Ohio is on track to achieve the expected emission reductions outlined in its regional haze SIP.

EPA proposes to conclude that Ohio has adequately addressed the provisions under 40 CFR 51.308(h) because monitored visibility values and emission trends indicate that Class I areas impacted by Ohio's sources are meeting or exceeding the RPGs for 2018, and are expected to continue to meet or exceed the RPGs for 2018.

C. Public Participation

On December 14, 2015, Ohio provided an opportunity for FLMs to review the revision to Ohio's SIP reporting on progress made during the first implementation period toward RPGs for Class I areas outside the state that are affected by emissions from Ohio's sources. This was 60 days in advance of the public hearing.

Ohio's progress report includes the FLM comments in Appendices B.2 and B.3, and responses to those comments in Appendix B.4 to the progress report. Comments were received from the U.S. Forest Service and National Park Service. Ohio incorporated two of the three comments into the progress report and provided an explanation for not incorporating the third comment in the progress report.

Ohio also published notification for a public hearing and solicitation for full public comment on the draft progress report in widely distributed publications. A public hearing was held on February 25, 2016. No comments were received and no testimony was provided.

EPA proposes to find that Ohio has addressed the applicable requirements in 51.308(i) regarding FLM consultation.

III. What action is EPA taking?

EPA is proposing to approve Ohio's Regional Haze five-year progress report, submitted March 11, 2016, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 CAA; 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).

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, Volatile organic compounds.

Dated: September 28, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017-22230 Filed 10-13-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0413; FRL-9969-47-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the state implementation plan (SIP) revision submitted by the State of West Virginia for the purpose of updating the effective date by which the State regulations incorporate by reference the national ambient air quality standards (NAAQS), additional monitoring methods, and additional equivalent monitoring methods. This update will effectively add the following to the West Virginia SIP: The 2015 ozone NAAQS, monitoring reference and equivalent methods pertaining to fine particulate matter (PM_{2.5}), carbon monoxide (CO), and coarse particulate matter (PM₁₀), and it will revise the ozone monitoring season to March 1st through October 31st, the Federal Reference Method (FRM), the Federal Equivalent Method (FEM), and the Photochemical Assessment Monitoring Stations