6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2025-0174; FRL-12731-02-R3]

Air Plan Approval; West Virginia; 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 the regional haze State implementation plan (SIP) revision submitted by West Virginia (West Virginia, WV, or the State) on August 12, 2022, to address applicable requirements under the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR) for the regional haze program's second implementation period. The EPA is taking this action pursuant to the CAA.

DATES: This final 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 EPA-R03-OAR-2025-0174. All documents in the docket are listed on the *www.regulations.gov* website.

Although listed in the index, some information is not publicly available, *e.g.*, confidential

business information (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 *www.regulations.gov*, or please contact the person identified in the **For Further Information Contact** section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

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I. What is being addressed in this document?

The EPA is approving West Virginia's regional haze SIP revision for the second implementation period, also referred to as the second planning period. As required by section 169A of the CAA, the RHR calls for State and Federal agencies to work together to improve

visibility in 156 national parks and wilderness areas, known as mandatory Class I Federal areas.[1] The rule requires the States, in coordination with the EPA, the National Park Service, the Fish and Wildlife Service, the Forest Service, 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 (SO_2), oxides of nitrogen (NO_x), and, in some cases, volatile organic compounds (VOC) and ammonia (NH_3)). As discussed in our proposed rulemaking, in section III of this preamble, and in the accompanying Response to Comments (RTC) document, the EPA finds that West Virginia's regional haze SIP meets the statutory and regulatory requirements for the regional haze second planning period.

II. Summary of the Proposed Action and the EPA's Reasons for this Final Action

A. Summary of the Proposed Action

On August 12, 2022, the West Virginia Department of Environmental Protection (WV DEP) submitted a revision to the West Virginia SIP to address regional haze for the second planning period. WV DEP submitted this SIP 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.

The EPA published a notice of proposed rulemaking (NPRM) proposing disapproval of West Virginia's August 12, 2022 SIP revision on January 21, 2025 (90 FR 6932). The public

[1] *See* 40 CFR part 81, subpart D.

comment period closed on February 20, 2025. During that public notice-and-comment period, the EPA received six sets of comments. The full text of comments received on that NPRM are available via Docket ID Number EPA-R03-OAR-2024-0625 at *www.regulations.gov*.

The EPA subsequently published a new NPRM on April 18, 2025 (90 FR 16478), that withdrew the NPRM published on January 21, 2025 (90 FR 6932), commenced a public notice-and-comment period via Docket ID Number EPA-R03-OAR-2025-0174, and proposed to fully approve all elements of West Virginia's August 12, 2022 SIP revision as meeting the requirements of the CAA and RHR. In the April 18, 2025 NPRM, the EPA also announced a new policy that, where visibility conditions for a Class I Federal area impacted by a State are below the Unform Rate of Progress (URP) and the State has considered the four statutory factors, the State will have presumptively demonstrated reasonable progress for the second planning period for that area. The NPRM provided background on the requirements of the CAA and RHR, summarized West Virginia's regional haze SIP submittal, and explained the EPA's rationale for its proposed action. That background and rationale will not be restated in full here.

B. Reasons for this Final Action

In this final action, the EPA is affirming that it is now the Agency's policy that, where visibility conditions for a Class I Federal area impacted by a State are below the URP and the State has considered the four statutory factors, the State will have presumptively demonstrated reasonable progress for the second planning period for that area. The EPA acknowledges that this final action reflects a change in policy as to how the URP should be used in the evaluation of regional haze second planning period SIPs but believes that this policy better aligns with the purpose of the statute and RHR: achieving "reasonable" progress towards natural visibility.

As described in the April 18, 2025 (90 FR 16478) NPRM, the EPA has discretion and authority to change policy. In *FCC v. Fox Television Stations, Inc*., the U.S. Supreme Court plainly stated that an agency is free to change a prior policy and "need not demonstrate … that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better." 566 U.S. 502, 515 (2009) (referencing Motor *Vehicle Mfrs. Ass'n of United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983)). *See also Perez v. Mortgage Bankers Assn*., 135 S. Ct. 1199 (2015).

The Class I areas impacted by emissions from WV are all below the URP, and WV's SIP submittal demonstrated that the state took into consideration the four reasonable progress factors listed in CAA 169A(g)(1)[2] with respect to an adequate number of emissions sources. Thus, the EPA has determined that WV's SIP revision is fully approvable under the Agency's new policy. Indeed, we think this policy better aligns with the statutory goal because it recognizes the considerable improvements in visibility impairment that have been made by a wide variety of State and Federal programs in recent decades.[3]

Understanding what the URP is and how it has been used in the context of the RHR is important to understanding the implications of the policy change the EPA is finalizing in this

[2] The four statutory factors required to be taken into consideration in determining reasonable progress are: the costs of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements. CAA section 169(g)(1).

[3] In addition, as we noted in the NPRM, certain commenters advocated for this policy during the public comment period for the NPRM that was published on April 18, 2025 (90 FR 16478), including Monongahela Power Company (Mon Power), the owner of two of the power plants selected for evaluation in the SIP submittal. *See* Mon Power's February 20, 2025 comment letter.

action. In developing the regulations required by CAA section 169A(b), the EPA established the concept of URP for each Class I area. The URP is determined by drawing a straight line from the measured 2000-2004 baseline conditions (in deciviews) for the 20% most impaired days at each Class I area to the estimated 20% most impaired days natural conditions (in deciviews) in 2064. From this calculation, a URP value can be calculated for each year between 2004 and 2064. For each Class I area, there is a regulatory requirement to compare the projected visibility impairment (represented by the reasonable progress goal, or "RPG") at the end of each planning period to the URP (*e.g.*, in 2028 for the second planning period).[4] 40 CFR 308(f)(1)(vi). If the projected RPG is above the URP, then an additional "robust demonstration" requirement is triggered for each state that contributes to that Class I Federal area. 40 CFR 308(f)(3)(ii).

In comments on the EPA's January 21, 2025 (90 FR 6932) NPRM, West Virginia explained the following: "The DAQ [WV DEP's Division of Air Quality] asserts progress towards decreasing visibility impairment since the first implementation period has immensely exceeded the expectations of the EPA, States, Federal land managers, and the public, causing an unreasonable belief additional visibility improvement can continue indefinitely at such a rapid pace via arbitrary federally enforceable emissions limits."[5] The State also disagreed "with the assertion that its four-factor analysis was insufficient because it did not reach the conclusion

[4] We note that RPGs are a regulatory construct that we developed to address statutory mandate in section 169B(e)(1), which required our regulations to include "criteria for measuring 'reasonable progress' toward the national goal." Under 40 CFR 51.308(f)(3)(ii), RPGs measure the progress that is projected to be achieved by the control measures a state has determined are necessary to make reasonable progress. Consistent with the 1999 RHR, the RPGs are unenforceable, though they create a benchmark that allows for analytical comparisons to the URP and mid-implementation-period course corrections if necessary. 82 FR at 3091-3092, January 10, 2017.

[5] See p. 5 of WV DEP's February 19, 2025 comment letter.

additional controls were required."[6] Similarly, Mon Power commented that Class I Federal areas "are presently well below the URP glide paths, proving that already implemented past measures have been and continue to be successful."[7]

In the 2017 RHR Revisions, the EPA addressed the role of the URP as it relates to a State's development of its second planning period SIP. 82 FR 3078 (January 10, 2017). Specifically, in response to comments suggesting that the URP should be considered a "safe harbor" and relieve States of any obligation to consider the four statutory factors, the EPA explained that the URP was not intended to be such a safe harbor. 82 FR at 3099, January 10, 2017. The EPA summarized such comments as follows:

> "Some commenters stated a desire for corresponding rule text dealing with situations where RPGs are equal to ("on") or better than ("below") the URP or glidepath. Several commenters stated that the URP or glidepath should be a "safe harbor," opining that states should be permitted to analyze whether projected visibility conditions for the end of the implementation period will be on or below the glidepath based on on-the-books or on-the-way control measures, and that in such cases a four-factor analysis should not be required." *Id*.

Other comments indicated a similar approach, such as "a somewhat narrower entrance to a 'safe harbor,' by suggesting that if current visibility conditions are already below the end-of-planning-period point on the URP line, a four-factor analysis should not be required." *Id*. The EPA was clear in its response: "We do not agree with either of these recommendations." The EPA explained its position as follows: "The CAA requires that each SIP revision contain long-term strategies for making reasonable progress, and that in determining reasonable progress states must consider the four statutory factors. Treating the URP as a safe harbor would be inconsistent

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[6] See p. 5 of WV DEP's February 19, 2025 comment letter.
[7] See p. 1 of MonPower's February 20, 2025 comment letter.

with the statutory requirement that states assess the potential to make further reasonable progress towards natural visibility goal in every implementation period." *Id*. (footnote omitted).

Importantly, the EPA's new policy does not make the URP a safe harbor. The new policy merely creates a presumption that the State's second planning period SIP is making reasonable progress for a Class I Federal Area if the State has taken into consideration the four statutory factors of 169A(g)(1) and that area is below the URP. This is consistent with the CAA and RHR.

III. Public Comments Received on the Proposed Action and Responses to Comments

During the public notice-and-comment period, the EPA received 22 sets of comments on its April 18, 2025 proposal. Seventeen sets of comments supported the EPA's proposed action; these included comments from various state entities, specific utility companies, and coalitions and councils representing utilities. The EPA acknowledges these supportive comments, which are included in the docket for this action.

Five sets of comments were opposed to the EPA's proposed action; these included comments from two individuals, one of the regional planning organizations for visibility, and two coalitions of conservation groups or environmental organizations.

While we address a number of these adverse comments directly in this FRN, our full responses are included in the Response to Comment (RTC) document in the docket for this action. We briefly address in this section: (1) whether the EPA's new policy is consistent with the CAA and RHR; (2) whether the EPA sufficiently justified its basis for the new policy; (3) whether the action is nationally applicable or based on a determination of nationwide scope and effect; (4) whether the action departs from national policy without complying with the EPA's

consistency regulations at 40 CFR part 56; and (5) whether the WV SIP met the requirements of the new policy.

As detailed at length in the RTC document in the response at III.A.3, the EPA's new policy is consistent with the CAA. Pursuant to CAA 169A(a)(4), Congress explicitly delegated to the EPA the authority to promulgate regulations regarding reasonable progress towards meeting the national goal. As some comments suggest, to determine the measures necessary to make reasonable progress towards the national visibility goal under 169A(a)(1), Congress mandated "tak[ing] into consideration the cost of compliance, the time necessary for compliance, and the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirement." CAA 169A(g)(1).

However, nothing in the statute defines what it means "to take into consideration" the four factors under CAA 169A(g)(1). Under this statutory framework, the EPA has been empowered by Congress to give meaning to this statutory phrase. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395 (2024). The phrase "to take into consideration" implies a broader process not limited to the four statutory factors, allowing states to weigh in other factors, like visibility, to support their determination of whether additional measures are necessary to make reasonable progress at Class I Federal areas. This follows from reasonable progress requiring the improvement of visibility. CAA 169A(b)(2). As such, visibility improvement must be a fundamental part of determining the extent of progress that is considered reasonable.

Being below the URP does not relieve a State of its obligations under the CAA and the RHR to make reasonable progress. Also, being below the URP is not a safe harbor because the EPA still reviews a State's determination of whether additional control measures are necessary

for reasonable progress, whether the state submitted those measures for incorporation into the SIP, and whether the measures are consistent with other provisions in the CAA.

As required by the statute, West Virginia took into consideration the four statutory factors in CAA section 169A(g)(1) and determined that the sources selected were in compliance with already implemented emission control measures which continue to be successful, and that no additional SO_2 controls were necessary to make reasonable progress. Further, CAA section 169A(b)(2) requires SIPs to include "such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress." Congress explicitly stated its intent for states to only include mechanisms as may be necessary for a Class I Federal area to achieve reasonable progress. West Virginia concluded that it was not necessary to incorporate any new emission limitations, schedules of compliance, or other measures into its SIP. Thus, West Virginia did not ignore the results of its consideration of the four statutory factors. Rather, consistent with the EPA's new policy, the state properly used the URP to inform its final decision making as to the measures necessary to make reasonable progress in the second planning period.

As discussed in the RTC document at III.C.3, the EPA's change in policy is consistent with *FCC v. Fox Television*, 556 U.S 502 (2009). Under *FCC v. Fox*, an agency's change in policy is permissible if the agency acknowledges the change, believes it to be better, and "show[s] that there are good reasons for the new policy." 556 U.S. 502, 515. In our proposal for this rulemaking, we stated our reasons for implementing this new policy. 90 FR 16478, April 18, 2025. In section I, *What action is the EPA proposing?*, of the rulemaking, we stated: "Based on our change in policy discussed in section V of this preamble, the EPA proposes that West

Virginia's regional haze SIP meets the statutory and regulatory requirements for the regional haze second planning period." The EPA more fully articulated the substance of the change in policy in section V, *The EPA's Rationale for Proposing Approval*, of that rulemaking. *Id.* at 16482-84. In sum, the EPA's proposal sufficiently justifies the change in policy under *FCC v. Fox*.

The decision in *FCC v. Fox* turned primarily on whether the FCC's change in policy would lead to the FCC "arbitrarily punishing parties without notice of the potential consequences of their action." 556 U.S. at 517. As we explained in the proposal, the changed policy is prospective, which addresses the primary concern in *FCC v. Fox*. Additionally, the new policy "aligns with the purpose of the statute and RHR, which is achieving 'reasonable' progress, not maximal progress, toward Congress' natural visibility goal." *Id*. at 16483. Furthermore, we note that the legislative history of CAA section 169A is consistent with our change in policy. The reconciliation report for the 1977 CAA amendments indicates that the term "maximum feasible progress" in section 169A was changed to "reasonable progress" in the final version of the legislation passed by both chambers. *See* Legislative History of the Clean Air Act Amendments of 1977 P.L. 95-95 (1977), *H.R. Rep. No. 95-564*, at 535.

As we explain in the RTC document in the response at III.B.2, the EPA's Regional Consistency regulations at 40 CFR part 56, and in particular 40 CFR 56.5(b), are not relevant to this action. 40 CFR 56.5(b) requires that a "responsible official in a Regional office shall seek concurrence from the appropriate EPA Headquarters office on any interpretation of the Act, or rule, regulation, or program directive when such interpretation may result in application of the act or rule, regulation, or program directive that *is inconsistent* with Agency policy." (emphasis

added). As we expressly indicated in the proposed WV SIP approval, the approval is *consistent* with the announced change in agency policy. Therefore, there is no obligation under the plain language of the EPA's Regional Consistency regulations for anyone in the region to seek concurrence from EPA Headquarters to take action consistent with EPA policy. The lack of relevance of these regulations to this action accounts for the lack of materials related to compliance with the Regional Consistency process in the docket for this rulemaking.

As discussed in the RTC document in the response at III.D.2, this action is "locally or regionally applicable" under CAA section 307(b)(1) because it applies only to a SIP submission from a single state, West Virginia. *See Oklahoma v. EPA*, 605 U. S. ___, ___–___ (2025) (slip op., at 8) (a SIP is "a state-specific plan" and "the CAA recognizes this limited scope in enumerating a SIP approval as a locally or regionally applicable action"); *see also, Am. Rd. & Transp. Builders Ass'n*, 705 F.3d 453, 455 (D.C. Cir. 2013) (describing EPA action to approve a single SIP under CAA section 110 as the "[p]rototypical" locally or regionally applicable action). Whether our proposal to approve West Virginia's second planning period SIP "'announc[es]' a 'new' national policy" has no bearing on the applicability of EPA's final action. To determine whether an action is "nationally applicable" or "locally or regionally applicable," "court[s] need look only to the face of the agency action, not its practical effects…." *EPA v. Calumet Shreveport Refining, L.L.C.*, 605 U.S. ___ (2025) (slip op. at 12) ("[W]e determine an action's range of applicability by 'look[ing] only to the face of the [action], rather than to its practical effects.'") (quoting *Am. Rd. & Transp. Builders Ass'n.*, 705 F. 3d at 456) and *Oklahoma*, 605 U.S. ___, ___–___ (2025) (slip op. at 9) (basis for EPA action is not relevant to determining its applicability); *see also Sierra Club v. EPA*, 926 F.3d 844, 849 (D.C. Cir. 2019) and *RMS of*

Georgia, LLC v. EPA, 64 F.4th 1368, 1372 (11th Cir. 2023) ("our sister circuits have established a consensus that we should begin our analysis by analyzing the nature of the EPA's action, not the specifics of the petitioner's grievance"). Furthermore, the comments that claim that this action "amend[s] the nationally applicable RHR" are unsupported and incorrect. This action simply applies a new policy related to the URP in the context of the EPA's evaluation of West Virginia's regional haze SIP submission. Because this action applies a new policy to a SIP submission from West Virginia alone, it is locally or regionally, not nationally, applicable.

Second, comments that claim that the EPA "must" publish a finding that this action is "based on a determination of nationwide scope [or] effect" are also unsupported and incorrect. The Supreme Court has recognized that "[b]ecause the 'nationwide scope or effect' exception can apply only when 'EPA so finds and publishes' that it does, EPA can decide whether the exception is even potentially relevant." *Calumet Shreveport Refining, L.L.C.*, 605 U.S. ___ (slip op. at 16), citing *Sierra Club v. EPA*, 47 F.4th 738, 746 (D.C. Cir. 2022). As the D.C. Circuit has also stated, the "EPA's decision whether to make and publish a finding of nationwide scope or effect is committed to the agency's discretion and thus is unreviewable." *Sierra Club v. EPA*, 47 F.4th at 745; *see also Texas v. EPA*, 983 F.3d 826, 835 (5th Cir. 2020) ("when a locally applicable action is based on a determination of nationwide scope or effect, the EPA has discretion to select the venue for judicial review").

The Administrator has not made and published a finding that this action is based on a determination of nationwide scope or effect. Accordingly, any petition for review of this action must be filed in the United States Court of Appeals for the appropriate regional circuit.

Finally, as detailed in the RTC document in the responses at section IV, West Virginia

met the requirements of the new policy. First, the RHR requires states to submit a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal area within the State and for each mandatory Class I Federal area located outside the State that may be affected by emissions from the State, 40 CFR 51.308(f)(2), and the statute refers to "for a State the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area" CAA section 169A(b)(2). However, there is no specific statutory or regulatory requirement to identify the precise set of Class I areas that are affected by emissions from the State of West Virginia, and there is no requirement to establish a source contribution threshold in identifying those areas. In this case, WV DEP identified affected out-of-state Class I areas in several ways, as we explain in the RTC document at response section IV.A.5, none of which are above the 2028 URP.

The EPA believes WV DEP has reasonably documented the out-of-state Class I area contributions, and they are not reasonably anticipated to cause or contribute to any impairment in any area that is above the URP.

In conclusion, as discussed in more detail in the responses at section IV of the RTC document, West Virginia took into consideration the four statutory factors in CAA section 169A(g)(1) and determined that the specific sources selected for four-factor analyses were in compliance with already implemented emission control measures which continue to be successful, and that no additional SO_2 controls were necessary to make reasonable progress. Further, section 169A(b)(2) of the Act requires SIPs to include "such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress." Congress explicitly stated its intent for states to only include mechanisms as may be necessary for Class I

Federal areas to achieve reasonable progress. West Virginia concluded that it was not necessary to incorporate any new emission limitations, schedules of compliance, or other measures into its SIP for these sources. Thus, West Virginia did not ignore the results of its consideration of the four statutory factors; rather, as supported by the new policy, the State properly used the URP to inform its final decision making as to the measures necessary to make reasonable progress in the second planning period.

The full text of comments received is included in the publicly posted docket associated with this action at *www.regulations.gov*. The RTC document, which is also included in the docket associated with this action, provides detailed responses to all significant comments received. The RTC document is organized by topic. Therefore, if additional information is desired concerning how the EPA addressed a particular comment, the reader should refer to the appropriate section in the RTC document.

IV. Final Action

For the reasons set forth in the April 18, 2025 NPRM, the RTC document, and in this final rule, the EPA is approving West Virginia's August 12, 2022 SIP submittal as satisfying the regional haze requirements for the second planning period contained in 40 CFR 51.308(f).

V. 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, the 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 Order 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 (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); 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 the 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, and the 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 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

For the reasons stated in the preamble, the EPA amends 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 XX—West Virginia

2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for "Regional Haze Plan from 2018-2028" at the end of the table to read as follows:**§ 52.2520 Identification of plan.**

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(e)* * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	* *	*	
West Virginia Regional Haze Plan (2018-2028)	State-wide	8/12/2022	**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, 90 FR **[INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]**	