written obligation of assignment from one person or party to another person or party.

* * * * *

■ 7. Amend § 11.6 by re-designating paragraph (d) as (e) and adding a new paragraph (d).

The addition reads as follows:

§ 11.6 Registration of attorneys and agents.

* * * * *

(d) *Design patent practitioners.* Any citizen of the United States who is an attorney and who fulfills the requirements of this part may be registered as a design patent attorney to practice before the Office in design patent proceedings. Any citizen of the United States who is not an attorney, and who fulfills the requirements of this part may be registered as a design patent agent to practice before the Office in design patent proceedings.

* * * * *

■ 8. Amend § 11.8 by revising paragraph (b) to read as follows:

§ 11.8 Oath and registration fee.

* * * * *

(b) An individual shall not be registered as an attorney under § 11.6(a), registered as an agent under § 11.6(b) or (c), registered as a design patent practitioner under § 11.6(d), or granted limited recognition under § 11.9(b) unless, within two years of the mailing date of a notice of passing the registration examination or of a waiver of the examination, the individual files with the OED Director a completed Data Sheet, an oath or declaration prescribed by the USPTO Director, and the registration fee set forth in § 1.21(a)(2) of this subchapter. An individual seeking registration as an attorney under § 11.6(a) must provide a certificate of good standing of the bar of the highest court of a State that is no more than six months old.

* * * * *

■ 9. Amend § 11.10 by revising paragraphs (b)(1) introductory text and (b)(2) introductory text to read as follows:

§ 11.10 Restrictions on practice in patent matters; former and current Office employees; government employees.

* * * * *

(b) * * *

(1) To not knowingly act as an agent, attorney, or design patent practitioner for or otherwise represent any other person:

* * * * *

(2) To not knowingly act within two years after terminating employment by the Office as agent, attorney, or design patent practitioner for, or otherwise represent any other person:

* * * * *

■ 10. Amend § 11.16 by revising paragraph (c)(1)(i) to read as follows:

§ 11.16 Requirements for admission to the USPTO Law School Clinic Certification Program.

* * * * *

(c) * * *

(1) * * *

(i) Be registered under § 11.6(a) or (b) as a patent practitioner in active status and good standing with OED;

* * * * *

■ 11. Amend § 11.704 by revising paragraph (b) to read as follows:

§ 11.704 Communication of fields of practice and specialization.

* * * * *

(b) A registered practitioner under § 11.6(a) who is an attorney may use the designation ''Patents,'' ''Patent Attorney,'' ''Patent Lawyer,'' ''Registered Patent Attorney,'' or a substantially similar designation. A registered practitioner under § 11.6(b) who is not an attorney may use the designation ''Patents,'' ''Patent Agent,'' ''Registered Patent Agent,'' or a substantially similar designation. A registered practitioner under § 11.6(d) who is an attorney may use the designation ''Design Patent Attorney.'' A registered practitioner under § 11.6(d) who is not an attorney may use the designation ''Design Patent Agent.'' Unless authorized by § 11.14(b), a registered patent agent or design patent agent shall not hold themself out as being qualified or authorized to practice before the Office in trademark matters or before a court.

* * * * *

PART 41—PRACTICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

■ 12. The authority citation for part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135, and Pub. L. 112–29.

■ 13. Amend § 41.106 by revising paragraph (f)(4) to read as follows:

§ 41.106 Filing and service.

* * * * *

(f) * * *

(4) A certificate made by a person other than a registered practitioner must be in the form of an affidavit.

Kathi Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–25234 Filed 11–15–23; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2020–0432; FRL–10121–02–R2]

Approval and Promulgation of Air Quality Implementation Plans; New Jersey; 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 Staet implementation plan (SIP) revision submitted by New Jersey on March 26, 2020, as satisfying applicable requirements under the Clean Air Act (CAA) and EPA's Regional Haze Rule (RHR) for the program's second implementation period. New Jersey'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.

DATES: This final rule is effective on December 18, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2020–0432. All documents in the docket are listed on the *https://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 electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nicholas Ferreira, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone number: (212) 637–3127, email address: *ferreira.nicholas@epa.gov.*

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

Table of Contents

I. Background

On March 26, 2020, the New Jersey Department of Environmental Protection (NJDEP) submitted a revision to its SIP to address regional haze for the second implementation period. NJDEP supplemented its SIP submission on September 8, 2020, and April 1, 2021. NJDEP made this SIP submission to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308.

On August 19, 2022, the EPA published a Notice of Proposed Rulemaking (NPRM) in which the EPA proposed to approve New Jersey's March 26, 2020, SIP submission, as supplemented on September 8, 2020, and April 1, 2021, as satisfying the regional haze requirements for the second implementation period contained in the CAA and 40 CFR 51.308. *See* 87 FR 51016. The EPA is now determining that the New Jersey regional haze SIP submission for the second implementation period meets the applicable statutory and regulatory requirements and is thus approving New Jersey's submission into its SIP.

II. Evaluation of Comments

In response to the NPRM, the EPA received eight comments, seven of which were unique, during the 30-day public comment period and is providing responses to the comments that were received. The specific comments may be viewed under Docket ID Number EPA–R02–OAR–2020–0432 on the *https://www.regulations.gov* website.

Comment: Several commentors, including MANE–VU, the Tennessee Department of Environment & Conservation, and the National Park Service (NPS), support EPA's proposal to approve New Jersey's regional haze Staet implementation plan (SIP). One commenter, MANE–VU, also states that it supports EPA's thorough approach in reviewing New Jersey's SIP, including its response to each MANE–VU Ask.

Response: EPA appreciates and agrees with the commentors.

Comment: Several commentors, including the Tennessee Department of Environment & Conservation, Virginia Department of Environmental Quality, and North Carolina Division of Air Quality, acknowledge EPA's assessment and agree with EPA's determination that the Reasonable Progress Goals (RPGs) cannot include strategies for upwind states that those upwind states have not adopted.

Response: As noted in the NPRM, § 51.308(f)(3)(i) specifies that RPGs must reflect ''enforceable emissions limitations, compliance schedules, and other measures *required under paragraph (f)(2)* of this section'' (emphasis added). RPGs are intended to provide a snapshot of projected visibility conditions at the end of the implementation period, assuming all measures that are necessary to make reasonable progress at a given class I area are being implemented. The emission reduction measures that must be reflected in RPGs include adopted regulations and measures that both the downwind and upwind states have identified as necessary and that will be implemented by 2028. However, EPA interprets this provision to exclude emission reduction measures that downwind states believe are necessary to make reasonable progress but that upwind states have not, at the time of plan submission, determined are necessary pursuant to § 51.308(f)(2). This ensures that RPGs include only those measures that are reasonably certain to be implemented.

New Jersey's 2028 RPGs include measures for upwind states that, as of now, have not been determined to be necessary to make reasonable progress by those upwind states and are not currently included in their long-term strategies. Therefore, those RPGs in the New Jersey SIP do not represent implementation of the measures required under § 51.308(f)(2) and, as a result, do not accurately represent RPGs for Brigantine Wilderness. New Jersey's 2028 most impaired base case of 18.16 deciviews reflects the visibility conditions that are projected to be achieved based on states' existing measures. As such, EPA considers the 2028 modeled base case value of 18.16 deciviews to be a more appropriate, conservative estimate of the RPG for the 20% most impaired visibility days as it does not inappropriately rely on highly uncertain upwind emissions reductions.

Comment: The commentor, NPS, expresses concern over the use of MANE–VU's contribution threshold to identify the Class 1 areas New Jersey impacts beyond its boundaries and believes this threshold is not adequately protective of cumulative visibility impacts at Class 1 areas outside of the Staet. The commentor also states that it supports EPA's recognition that New Jersey emission sources contribute to visibility impairment for Class I areas beyond the Staet's boundaries, including at Shenandoah National Park in Virginia.

Response: In the NPRM, EPA did not expressly determine and explicitly state that New Jersey significantly contributes to visibility impairment for Class I areas beyond its boundaries, including at Shenandoah National Park in Virginia.

Regarding the analysis and determinations concerning New Jersey's contribution to visibility impairment at out-of-state Class I areas, the MANE–VU technical work focuses on the magnitude of visibility impacts from certain New Jersey emissions on its Class I area and other nearby Class I areas. Nevertheless, as explained in the NPRM, the analyses this rulemaking is based on did not account for all emissions and all components of visibility impairment (*e.g.,* primary PM emissions, and impairment from fine PM, elemental carbon, and organic carbon). In addition, as stated in the NPRM, ''Q/d'' analyses [1] with a relatively simplistic accounting for wind trajectories and CALPUFF being applied to a very limited set of electric generating units (EGUs) and major industrial sources of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) are not scientifically rigorous tools capable of evaluating contribution to visibility impairment from *all* emissions in a Staet. Furthermore, we note in the NPRM that the 2 percent or greater sulfate-plus-nitrate threshold used to determine whether New Jersey emissions contribute to visibility impairment at a particular Class I area may be higher than what EPA believes is an ''extremely low triggering threshold'' intended by the statute and regulations.

In sum, as discussed in the NPRM, based on the information provided in the SIP submission, emissions from New Jersey do contribute to visibility impairment at Brigantine Wilderness

[1] ''Q/d'' is emissions (Q) in tons per year, typically of one or a combination of visibility impairing pollutants, divided by distance to a class I area (d) in kilometers. The resulting ratio is commonly used as a metric to assess a source's potential visibility impacts on a particular class I area.

and have relatively minor contributions to other out-of-state Class I areas. However, as we indicated in the NPRM, due to the low triggering threshold intended by the CAA and the RHR and the lack of rigorous modeling analyses, EPA does not necessarily agree with New Jersey's conclusion that, based on a 2% contribution threshold, it does not contribute to visibility impairment at any Class I areas outside the Staet. While New Jersey noted that the contributions from several states outside the MANE–VU region are significantly larger than its own, we again clarify that each Staet is obligated under the CAA and the RHR to address regional haze visibility impairment resulting from emissions from within the State, irrespective of whether another Staet's contribution is greater. See ''Clarifications Regarding Regional Haze State Implementation Plans for the Second implementation Period,'' dated July 8, 2021 (''2021 Clarifications Memo'').[2]

Comment: The commentor, National Parks Conservation Association (NPCA), states that EPA's final action must make clear that reliance on the MANE–VU analysis alone is inadequate to satisfy the Regional Haze Rule. The commentor expresses concern that (1) the MANE–VU 3.0 Mm-1 threshold for defining sources to evaluate for additional controls to achieve reasonable progress towards the national visibility goal and (2) the two percent threshold New Jersey employed based on MANE–VU are unreasonably high.

Response: As explained in the NPRM, EPA does not necessarily agree that the 3.0 inverse megameters (Mm^{-1}) visibility impact is a reasonable threshold for source selection. The RHR recognizes that, due to the nature of regional haze visibility impairment, numerous and sometimes relatively small sources may need to be selected and evaluated for implementation of control measures to make reasonable progress. See 2021 Clarifications Memo at 4. As explained in the 2021 Clarifications Memo, while states have discretion to choose any source selection threshold that is reasonable, ''[a] state that relies on a visibility (or proxy for visibility impact) threshold to select sources for four-factor analysis should set the threshold at a level that captures a meaningful portion of the state's total contribution to visibility impairment to Class I areas.'' See 2021 Memo at 3. In this case, the 3.0 Mm^{-1} threshold identified only one source in New Jersey (and only 22 across the entire MANE–VU region), indicating that it may in some cases be unreasonably high. Since MANE–VU's threshold identified only one source in New Jersey for four-factor analysis, we do not in this case necessarily agree that a 3.0 Mm^{-1} threshold for selecting sources for four-factor analysis results in a set of sources the evaluation of which has the potential to meaningfully reduce the Staet's contribution to visibility impairment.

In this particular instance, we proposed to find that New Jersey's additional information and explanation indicated that the State had in fact examined a reasonable set of sources, including sources flagged by the federal land managers (FLMs), and reasonably concluded that four-factor analyses for its top-impacting sources were not necessary because the outcome would be that no further emission reductions would be reasonable. EPA based the proposed finding on the State's examination of its largest operating EGUs and its industrial commercial institutional (ICI) boilers, at the time of SIP submission, and on the emissions from and controls that apply to those sources, as well as on New Jersey's existing SIP-approved NO_X and SO_2 rules that effectively control emissions from the largest contributing stationary-source sectors.[3]

Comment: The commentor, NPCA, asserts that, contrary to the CAA's requirement, SIP measures, including stationary source emission limitations, must be practically enforceable and approved into the SIP. Additionally, the commentor notes EPA's proposal explains that for MANE–VU's Ask 4, the State's reliance and use of this Ask, which includes unspecified provisions that either are or will be in stationary source permits, is approvable ''as being part of the region's strategy for making reasonable progress.'' NPCA states that EPA must not approve this element of the proposed SIP because the permit provisions in construction and operating permits neither are nor will be in the SIP.

Response: EPA's approval of New Jersey's regional haze SIP is based on the fact the submission satisfies the applicable regulatory requirements for the second planning period in 40 CFR 51.308(f), (g), and (i). The applicable regulatory requirements include that states must evaluate and determine the emission reduction measures which are necessary to make reasonable progress by considering the four statutory factors, and that the measures that are necessary for reasonable progress must be in the SIP. EPA's NPRM explains that MANE–VU's Asks 2 and 3 engage with these requirements. EPA's proposal further explains that the measures in the State's SIP, and the related explanations it provided in its SIP submission, satisfy those Asks and therefore the applicable regulatory requirements. EPA's approval is therefore based on its determination that New Jersey's response to Asks 2 and 3 satisfy the reasonable progress requirements. To the extent that MANE–VU and the State regard the measures in Asks 1 and 4 through 6 as being part of the long term strategy for making reasonable progress, it was reasonable for New Jersey to address those Asks in its SIP submission.

As articulated in EPA's NPRM, Ask 4 requests that MANE–VU states pursue updating permits, enforceable agreements, and/or rules to lock-in lower emission rates for sources larger than 250 million British Thermal Units (MMBtu) per hour that have switched to lower emitting fuels. New Jersey's federally approved SIP for NO_X reasonably available control technology (RACT) limits the capability of a subject facility to switch to higher emitting fuels.[4] Furthermore, New Jersey's federally approved sulfur regulations in their SIP, provide that any source that combusts solid fuel and that is constructed, installed, reconstructed or modified, is also subject to New Jersey's state-of-the-art requirements,[5] lowest achievable emission rate requirements,[6] and best available control technology requirements at 40 CFR 52.21. In addition, modified units in New Jersey are required to amend their permits through the New Source Review (NSR) process if they plan to switch back to coal or a fuel that will increase emissions. A change in fuel would be a modification.[7] New Jersey's operating

[2] Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period. The EPA Office of Air Quality Planning and Standards, Research Triangle Park (July 8, 2021). *https://www.epa.gov/system/files/documents/2021-07/clarificationsregarding-regional-haze-state-implementationplans-for-the-second-implementation-period.pdf.*

[3] See April 2021 Supplemental Information for New Jersey's March 2020 Regional Haze SIP at 4–7.

[4] See N.J.A.C. 7:27–19.20 ''Fuel switching.''

[5] See N.J.A.C. 7:27–8.12 ''State of the art'' and N.J.A.C. 7:27–22.35 ''Advances in the art of air pollution control.''

[6] See N.J.A.C. 7:27–18 ''Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules).''

[7] See N.J.A.C. 7:27–22.1, defining ''Modify'' or ''modification'' as ''means any physical change in, or change in the method of operation of, existing equipment or control apparatus that increases the amount of actual emissions of any air contaminant emitted by that equipment or control apparatus or that results in the emission of any air contaminant not previously emitted. This term shall not include

permits regulations require that an application to modify the permit be submitted prior to the change in fuel.[8] Given the permitting and regulatory requirements outlined above, the EPA finds that New Jersey reasonably determined it had satisfied Ask 4.

Comment: Sierra Club and NPCA comment that EPA must thoroughly consider environmental justice concerns, for which the New Jersey SIP revision fails to adequately account. The energy and non-air quality environmental impacts of compliance factor directs states to consider the broader environmental implications of their regional haze plans, by requiring an analysis of the ''non-air quality environmental impacts of compliance,'' including environmental justice. In addition, the commenters assert that EPA failed to consider environmental justice concerns in several New Jersey communities identified by EPA's EJ Screen ranking in the ''90+ percentile for air toxics cancer risk, air toxics respiratory health impacts, and ozone exposure.'' Commenters also state that neither the SIP submittal nor EPA's proposal explain how the SIP complies with Title VI of the Civil Rights Act of 1964.

Response: The regional haze statutory provisions do not explicitly address considerations of environmental justice, and neither do the regulatory requirements of the second planning period in 40 CFR 51.308(f), (g), and (i). However, the lack of explicit direction does not preclude the State's SIP submission. As explained in ''EPA Legal Tools to Advance Environmental Justice,'' [9] the CAA provides states with the discretion to consider environmental justice in developing rules and measures related to regional haze. While a Staet may consider environmental justice under the reasonable progress factors, neither the statute nor the regulation requires states to conduct an environmental justice analysis for EPA to approve a SIP submission.

In this instance, New Jersey explained that it ''determined that reasonable progress is being made with the implementation of the Asks and other additional measures to improve visibility for the second planning period.'' [10] In its submittal, the State also noted that it has an advisory body, the Environmental Justice Advisory Council (EJAC), that is committed to the basic tenet set forth by the ''Environmental Justice Movement that all communities, regardless of their racial, ethnic, or economic composition, are entitled to equal protection from the consequences of environmental hazards.'' New Jersey's submittal also states that EJAC has a workgroup that focuses on air issues. In addition, the State's submittal indicates that New Jersey Executive Order No. 23,[11] signed on April 20, 2018, by Governor Murphy, directs NJDEP, with support from other agencies, to develop guidance on how all Staet departments can incorporate environmental justice considerations into their actions.

Commenters have provided additional information from an EJ Screen analysis that the State did not consider as part of its regional haze decision making. Without agreeing with the particular relevance or accuracy of this information, EPA acknowledges the EJ Screen information provided as part of the comment, which identifies certain demographic and environmental information regarding areas across New Jersey. The focus of the SIP at issue here, the regional haze SIP for New Jersey, is sulfate and nitrate emissions. This action addresses one EGU facility with three units and two industrial/institutional sources of air pollution impacting Class I areas. As discussed in the NPRM and in this notice of final rulemaking, EPA has evaluated New Jersey's SIP submission against the statutory and regulatory regional haze requirements and determined that it satisfies those minimum requirements. Furthermore, the CAA and applicable implementing regulations neither prohibit nor require such an evaluation of environmental justice with a SIP.

In addition to the above-discussed environmental justice related comments, the commenters also reference Title VI of the Civil Rights Act of 1964 (Title VI). EPA has previously addressed comments pertaining to Title VI and submitted on attainment planning SIP actions. *See, e.g.,* 87 FR 60494, 60530 (Oct. 5, 2022); 77 FR 65294 (Oct. 26, 2012). Most recently, EPA acknowledged in the October 5, 2022, proposed action that EPA has not issued national guidance or regulations concerning consideration of Title VI in the context of the SIP program. EPA indicated in the October 5, 2022, proposed action that guidance concerning implementation of CAA section 110(a)(2)(E) and Title VI is forthcoming.

Comment: The commentor, NPCA, asserts that there are two statements in section III.C. ''Long-Term Strategy for Regional Haze,'' [12] of the proposal that are inconsistent with the statutory requirements for reasonable progress. The commentor states that EPA must correct and clarify these inaccurate and confusing statements in its final action. The commentor notes that where a Staet uses visibility impacts (or supposedly minimal or insufficient visibility improvements) to reject emission controls at air pollution sources, that SIP submittal will be at odds with the plain language of the Act. The commentor also states that EPA must clarify in its final action that states must not rely on visibility to exclude emission reducing measures from a source that would otherwise be required to do so under the four statutory factors.

Response: EPA agrees with the commentor that visibility should not be used to summarily reject controls that are reasonable given the four statutory factors and notes that New Jersey did not use visibility impacts to reject emission controls at air pollution sources in its SIP submission. However, the EPA has also explained that states have flexibility under the CAA and RHR to reasonably consider visibility benefits as an optional factor alongside the four statutory factors, so long as such consideration does undermine or nullify the role of those statutory factors.[13]

III. Final Action

EPA is approving New Jersey's March 26, 2020, SIP submission, supplemented on September 8, 2020, and April 1, 2021, as satisfying the regional haze requirements for the second implementation period contained in 40 CFR 51.308(f).

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 Staet choices, provided that they meet

normal repair and maintenance. A modification may be incorporated into an operating permit through a significant modification, a minor modification, or a seven-day-notice change.''

[8] See N.J.A.C. 7:27–22 ''Operating Permits.''

[9] See EPA Legal Tools to Advance Environmental Justice, May 2022, available at *https://www.epa.gov/system/files/documents/2022-05/EJ%20Legal%20Tools%20May%202022%20FINAL.pdf* at 35–36.

[10] See Appendix K of docket EPA–R02–OAR–2020–0432.

[11] *https://nj.gov/infobank/eo/056murphy/pdf/E.O.-23.pdf.*

[12] See 87 FR 51020–23.

[13] See, *e.g.,* Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule (81 FR 26942, May 4, 2016), Docket Number EPA–HQ–OAR–2015–0531, U.S. Environmental Protection Agency at 186; 2019 Guidance at 36–37.

the criteria of the Clean Air Act. Accordingly, this action merely approves Staet law as meeting federal requirements and does not impose additional requirements beyond those imposed by Staet 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 14094 (88 FR 21879, April 11, 2023);
- 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 Staet 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 it 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).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The NJDEP did not evaluate EJ considerations by means of an extensive EJ analysis as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. Nevertheless, NJDEP did reference existing EJ programs within its SIP submittal, as described above in the section titled, ''Evaluation of Comments.'' EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and 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 January 16, 2024. 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.

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

Lisa Garcia,

Regional Administrator, Region 2.

For the reasons set forth in the preamble, 40 CFR part 52 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, 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:

§ 52.1570 Identification of plan.

* * * * *

(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 Plan from 2018–2028.	State-wide	March 26, 2020 as supplemented on September 8, 2020 and April 1, 2021.	11/16/2023, [insert **Federal Register** citation].	• Full approval. • New Jersey has met the Regional Haze Rule requirements for the 2nd implementation period.

[FR Doc. 2023–25239 Filed 11–15–23; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[GN Docket No. 16–142; FCC 23–53; FR ID 184482]

Authorizing Permissive Use of the ''Next Generation'' Broadcast Television Standard

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Commission's rules in a Report and Order on authorizing permissive use of the ''Next Generation'' Broadcast Television Standard. This document is consistent with the Commission's Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments to 47 CFR 73.3801(f) and (i), 73.6029(f) and (i), and 74.782(g) and (j) are published at 88 FR 45347, July 17, 2023 are effective as of November 16, 2023.

FOR FURTHER INFORMATION CONTACT: Evan Baranoff, Policy Division, Media Bureau, at 202–418–7142, or via email at *evan.baranoff@ffc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on November 7, 2023, OMB approved the information collection requirements contained in §§ 73.3801, 73.6029, and 74.782 of the Commission's rules. The OMB Control Number is 3060–1254. The Commission publishes this document as an announcement of the effective date of these rules. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 3–317, 45 L Street NE, Washington, DC 20554. Please include the OMB Control Number, 3060–1254, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 7, 2023, for the information collection requirements contained in §§ 73.3801, 73.6029, and 74.782 of the Commission's rules.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1254.

OMB Approval Date: November 7, 2023.

OMB Expiration Date: November 30, 2026.

Title: Next Gen TV/ATSC 3.0 Local Simulcasting Rules; 47 CFR 73.3801 (full-power TV), 73.6029 (Class A TV), and 74.782 (low-power TV) and FCC Form 2100 (Next Gen TV License Application).

Form Number: FCC Form 2100 (Next Gen TV License Application).

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents and Responses: 1,222 respondents; 11,260 responses.

Estimated Time per Response: 0.017–8 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535.

Total Annual Burden: 3,802 hours.

Total Annual Cost: $147,000.

Needs and Uses: On June 23, 2023, the Commission released a Third Report and Order (Third R&O), FCC 23–53, in GN Docket No. 16–142. In this Third R&O, the Commission makes changes to its Next Gen TV rules designed to preserve over-the-air (OTA) television viewers' access to multicast streams during television broadcasters' transition to ATSC 3.0.

Multicast Licensing. The Commission generally adopts its proposal in the Next Gen TV Multicast Licensing FNPRM to allow a Next Gen TV station to seek modification of its license to include certain of its non-primary video programming streams (multicast streams) that are aired on ''host'' stations during a transitional period. In adopting this proposal, the Commission follows the same licensing framework, and to a large extent the same regulatory regime, established for the simulcast of primary video programming streams on ''host'' station facilities.

Form 2100. The Commission adopts the Next Gen TV Multicast Licensing FNPRM's proposal to modify its Next Gen TV license application form (FCC Form 2100) to accommodate multicast licensing by collecting information similar to that already collected in the interim STA process. The Commission requires certain additional information as an addendum to Form 2100 if stations seek to include hosted multicast streams within their license. It also clarifies and slightly modifies the requirements of its rules governing Form 2100 to reflect the possibility of reliance on multiple hosts.

Specifically, applicants must prepare an Exhibit identifying each proposed hosted stream and provide the following information about each stream, as broadcast:

- the host station;
- channel number (RF and virtual);
- network affiliation (or type of programming if unaffiliated);
- resolution (*e.g.,* 1080i, 720p, 480p, or 480i);
- the predicted percentage of population within the noise limited service contour served by the station's original ATSC 1.0 signal that will be served by the host, with a contour overlay map identifying areas of service loss and, in the case of 1.0 streams, coverage of the originating station's community of license; and
- whether the stream will be simulcast, and if so, the ''paired'' stream in the other service.

Finally, the Exhibit must either state that the applicant will be airing the same programming that it is airing in 1.0