

the ranges of weight, altitude, and temperatures for which certification is requested with the 2.5-minute HUP.

(c) In addition to the requirements of § 29.923(d) when performing the endurance test, the 2.5 minute all engines operating must be performed using two applications of 2.5-minute HUP torque and the maximum speed for use with 2.5-minute HUP torque, per 10-hour cycle.

(d) In addition to the requirements of § 29.1049, the hovering cooling provisions at the 2.5-minute HUP must be shown as follows—

(1) Conduct a thermal stabilization at maximum weight, mission representative power, maximum altitude, and ambient temperatures specified in § 29.1043(b); following stabilization, increase power to the 2.5-minute HUP and HOGE for a duration of 2.5 minutes (150 seconds).

(2) Cycle in and out the HUP mode in a manner representative of the intended use of the 2.5-minute HUP, and per the instructions specified in the Rotorcraft Flight Manual, if any. The HUP cycles should account for repeated successive HUP applications and time duration between HUP cycles resulting in the most critical condition for the cooling provisions required by § 29.1041(a) and § 29.1041(b).

(3) Following the tests in paragraphs (d)(1) and (d)(2) of these special conditions, depart the hover and transition to a maximum continuous power climb at the best rate of climb speed. Continue the climb until 5 minutes after the highest temperatures are observed or until the service ceiling is reached.

(e) In addition to the requirements of § 29.1305, the pilot must have the means to identify the 2.5-minute HUP time limit associated with its use as follows—

- (1) When the power level is achieved,
- (2) when the event begins, and
- (3) when the time interval expires.

These indications must be clear and unambiguous to the pilot and must not cause pilot confusion. The use of these indications must be evaluated in operationally relevant scenarios in accordance with § 29.1523 for crew workload.

(f) In addition to the requirements of § 29.1521, the use of the 2.5-minute HUP must be limited by the following:

- (1) The maximum rotational speed, which may not be greater than—
  - (i) The maximum value determined by the rotor design; or
  - (ii) The maximum value demonstrated during the type tests;

(2) The maximum allowable turbine inlet or turbine outlet gas temperature (for turbine engines);

(3) The maximum allowable power or torque for each engine, considering the power input limitations of the transmission with all engines operating;

(4) The maximum allowable power or torque for each engine considering the power input limitations of the transmission with one engine inoperative;

(5) The time limit for the use of the power corresponding to the limitations established in paragraphs (f)(1) through (f)(4) of these special conditions; and

(6) The maximum allowable engine and transmission oil temperatures, if the time limit established in paragraph (f)(5) of these special conditions exceeds 2 minutes.

(7) Use of 2.5-minute HUP is limited to HOGE only.

(g) In addition to the requirements of § 29.1587(b)(8), the Rotorcraft Flight Manual must contain the out-of-ground effect hover performance determined under paragraph (b) of these special conditions, and the maximum safe wind demonstrated under the ambient conditions for the data presented. In addition, the Rotorcraft Flight Manual must include the maximum weight for each altitude and temperature condition at which the rotorcraft can safely hover out-of-ground-effect in winds not less than 17 knots from all azimuths. These data must be clearly referenced to the appropriate hover charts and specify that they are not to be used for take-off or landing determinations.

Issued in Kansas City, Missouri, on August 25, 2022.

**Patrick R. Mullen,**

*Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.*

[FR Doc. 2022-18722 Filed 8-29-22; 8:45 am]

**BILLING CODE 4910-13-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-HQ-OAR-2022-0320; FRL-9731-01-OAR]

#### Finding of Failure To Submit Regional Haze State Implementation Plans for the Second Planning Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final action.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action

finding that 15 states have failed to submit State Implementation Plans (SIPs) to satisfy the visibility protection requirements of the Clean Air Act (CAA), as described in implementing regulations, for the regional haze second planning period. These findings of failure to submit establish a 2-year deadline for the EPA to promulgate Federal Implementation Plans (FIPs) to address these requirements for a given state unless, prior to the EPA promulgating a FIP, the state submits, and the EPA approves, a SIP that meets these requirements.

**DATES:** Effective date of this action is September 29, 2022.

**FOR FURTHER INFORMATION CONTACT:** General questions concerning this document should be addressed to Mr. Joseph Stein, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539-04, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541-0195; email address: [stein.joseph@epa.gov](mailto:stein.joseph@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Notice and Comment Under the Administrative Procedures Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions or incomplete submissions, to meet the requirement. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

###### B. How can I get copies of this document and other related information?

The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2022-0320. All documents in the docket are listed and publicly available at <http://www.regulations.gov>. Publicly available docket materials are also available in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. Out of an abundance

of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID-19. Our Docket Center staff also continue to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on the EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

*C. How is the preamble organized?*

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*D. Where do I go if I have state-specific questions?*

The following chart shows the states that failed to make a complete second planning period regional haze SIP submittal as required by EPA’s Regional Haze Rule, 40 CFR 51.308, promulgated pursuant to the visibility protection provisions of the CAA found at CAA sections 169A and 169B. For the regional haze second planning period. For questions related to specific states mentioned in this document, please contact the appropriate EPA Regional office:

Regional offices	States
<i>EPA Region 1:</i> John Rogan, Chief, Air Quality Branch, EPA Region I, 5 Post Office Square-Suite 100, Boston, Massachusetts 02109-3912.	Maine, Rhode Island, Vermont.
<i>EPA Region 3:</i> Mike Gordon, Chief, Planning and Implementation Branch, EPA Region III, 1600 JFK Boulevard, Philadelphia, Pennsylvania 19103.	Pennsylvania, Virginia.
<i>EPA Region 4:</i> Lynorae Benjamin, Chief, Air and Radiation Division/Air Planning and Implementation Branch, EPA Region IV, 61 Forsyth Street (AIR), Atlanta, Georgia 30303.	Alabama, Kentucky, Mississippi.
<i>EPA Region 5:</i> Doug Aburano, Manager, Air & Radiation Division, EPA Region V, 77 W Jackson Boulevard (AR-18J), Chicago, Illinois 60604-3511.	Illinois, Minnesota.
<i>EPA Region 6:</i> Michael Feldman, Chief, Air and Radiation Division/Regional Haze and SO <sub>2</sub> Section, EPA Region VI, 1201 Elm Street, Suite 500, Dallas, Texas 75270.	Louisiana, New Mexico.
<i>EPA Region 7:</i> Andy Hawkins, Air and Radiation Division, Air Quality Programs Branch, EPA Region VII, 11201 Renner Boulevard, Lenexa, Kansas 66219.	Iowa, Missouri, Nebraska.

**II. Background and Overview**

*A. Regional Haze SIPs*

In the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation’s mandatory Class I Federal areas, which include certain national parks and wilderness areas.<sup>1</sup> CAA 169A. The CAA establishes as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas (Class I areas) which impairment results from manmade air pollution. CAA 169A(a)(1). More specifically, CAA section 169A(b)(2)(B) requires SIPs to include long-term strategies for making reasonable

progress toward meeting Congress’ national goal.

In 1990, Congress added section 169B to the CAA to further address visibility impairment, specifically, impairment from regional haze. CAA 169B. The EPA promulgated the Regional Haze Rule (RHR), codified at 40 CFR 51.308, on July 1, 1999. (64 FR 35714, July 1, 1999). These regional haze regulations are a central component of the EPA’s comprehensive visibility protection program for Class I areas. The RHR requires iterative SIP revisions that address the reasonable progress requirements for each 10–15 year planning period. Regional haze SIPs for the first planning period were due from states in December 2007. Much of the focus in the first implementation period of the regional haze program, which ran from 2007 through 2018, was on satisfying states’ statutory requirement that certain older, larger sources of visibility impairing pollutants install and operate the Best Available Retrofit Technology (BART). CAA 169(b)(2)(A); 40 CFR 51.308(d), (e).

In 2017, the EPA promulgated revisions to the RHR, (82 FR 3078, January 10, 2017), that apply for the second and subsequent implementation periods. The 2017 rulemaking made several changes to the requirements for regional haze SIPs to clarify states’ obligations and streamline certain regional haze requirements. The revisions to the regional haze program for the second and subsequent implementation periods focused on the requirement that states’ SIPs contain provisions for making reasonable progress towards the national visibility goal. The reasonable progress requirements as revised in the 2017 rulemaking (referred to here as the 2017 RHR Revisions) are codified at 40 CFR 51.308(f). Additionally, the 2017 RHR Revisions adjusted the deadline for states to submit their second implementation period SIPs from July 31, 2018, to July 31, 2021. 82 FR 3115.

Pursuant to CAA section 110(k)(1)(B), the EPA must determine no later than 6 months after the date by which a state is required to submit a SIP whether a

<sup>1</sup> Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. CAA 162(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

state has made a submission that meets the minimum completeness criteria established pursuant to CAA section 110(k)(1)(A). Completeness criteria are set forth at 40 CFR part 51, appendix V. The EPA refers to the determination that a state has not submitted a SIP submission that meets the minimum completeness criteria as a “finding of failure to submit.” This finding starts a 2-year “clock” for promulgation of a FIP by the EPA, in accordance with CAA section 110(c)(1), unless prior to such promulgation the state submits, and the EPA approves, a submittal from the state to meet the requirements of the RHR and CAA sections 169A and 169B. Even where the EPA has promulgated a FIP, the EPA will take action to withdraw that FIP if a state submits and the EPA approves a SIP satisfying the relevant requirements. These findings of failure to submit do not start mandatory sanctions clocks pursuant to CAA section 179 because these findings of failure to submit do not pertain to part D plans for nonattainment areas.

Some states have submitted complete second planning period regional haze SIPs as required under the CAA and the RHR, but at present 15 states have not yet submitted complete SIPs to the EPA to satisfy these requirements of the CAA and RHR. The EPA is by this action making a finding of failure to submit for those states.

#### *B. Background on Second Planning Period Regional Haze SIPs and Related Matters*

As mentioned previously, the 2017 RHR Revisions set the deadline for states to submit their second planning period regional haze SIPs by July 31, 2021. 40 CFR 51.308(f). In total, 15 states have failed to submit complete SIPs while 35 states and the District of Columbia have submitted complete SIPs addressing CAA sections 169A and 169B for the regional haze second planning period. The EPA has included in the docket for this action its correspondence with states regarding the completeness of their SIP submissions. SIPs may be considered complete by either of two methods. First, the EPA may make a determination that a SIP is complete under the “completeness criteria” set out at 40 CFR part 51, appendix V. See CAA section 110(k)(1). Second, a SIP may be deemed complete by operation of law if the EPA has failed to make such a determination by 6 months after receipt of the SIP submission. See CAA section 110(k)(1)(B). The 15 states that failed to make a complete SIP submittal addressing regional haze for the second planning period include: Alabama,

Illinois, Iowa, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Pennsylvania, Rhode Island, Vermont, and Virginia. In all other cases, the EPA has determined that the SIP submittals are complete or they have been deemed complete by operation of law. The EPA is issuing national findings of failure to submit regional haze SIPs addressing the requirements of the RHR and CAA sections 169A and 169B for the regional haze second planning period for all states that EPA has not found to have made complete submissions as of the date of this document.

#### **III. Findings of Failure To Submit for States That Failed To Make a Regional Haze SIP Submission for the Second Planning Period**

The EPA is making findings of failure to submit for 15 states. The EPA finds the following states have not submitted complete regional haze SIPs that meet the requirements of the RHR and CAA sections 169A and 169B for the regional haze second planning period: Alabama, Illinois, Iowa, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Pennsylvania, Rhode Island, Vermont, and Virginia. Notwithstanding these findings, and the associated obligation of the EPA to promulgate FIPs for these states within 2 years of these findings, the EPA intends to continue to work with states subject to these findings to assist them in developing approvable SIP submittals in a timely manner.

#### **IV. Environmental Justice Considerations**

The purpose of this action is to make findings that the named states failed to provide the identified SIP submissions to the EPA that are required under the RHR and the CAA. As such, this action, in and of itself, does not adversely affect the level of protection provided for human health or the environment. Moreover, it is intended that the actions and deadlines resulting from this document will promote greater protection for U.S. citizens, including minority, low-income, or indigenous populations, by ensuring that states meet their statutory obligation to develop and submit SIPs consistent with visibility protection requirements.

#### **V. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

#### *A. Executive Orders 12866: Regulatory Planning and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

#### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act. This final action does not establish any new information collection requirement apart from what is already required by law. This finding relates to the requirement in the CAA for states to submit SIPs under section 169A and 169B of the CAA for the regional haze second planning period.

#### *C. Regulatory Flexibility Act (RFA)*

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553 or any other statute. This action is not subject to notice and comment requirements because the agency has invoked the APA “good cause” exemption under 5 U.S.C. 553(b). The Agency certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The action is a finding that the named states have not made the necessary SIP submission for regional haze to meet the requirements under sections 169A and 169B of the CAA.

#### *D. Unfunded Mandates Reform Act of 1995 (UMRA)*

This action does not contain any unfunded mandate as described in UMRA 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

#### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive

Order 13175 (65 FR 67249, November 9, 2000). This action responds to the requirement in the CAA for states to submit SIPs to satisfy the requirements of the RHR and CAA. 82 FR 3078 (Jan. 10, 2017). No tribe is identified in this action as failing to submit a required SIP. Therefore, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it is a finding that certain states have failed to submit a complete SIP that satisfies regional haze requirements under sections 169A and 169B of the CAA for the second planning period and does not directly or disproportionately affect children.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. In finding that certain states have failed to submit a complete SIP that satisfies the regional haze requirements under sections 169A and 169B of the CAA for the regional haze second planning period, this action does not adversely affect the level of protection provided to human health or the environment.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, 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).

*L. Judicial Review*

Section 307(b)(1) of the CAA indicates which federal Courts of Appeal have venue for petitions of review of final actions by the EPA under the CAA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of “nationally applicable regulations promulgated, or final action taken, by the Administrator,” or (ii) such action is locally or regionally applicable, but “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.” This final action is nationally applicable. To the extent a court finds this final action to be locally or regionally applicable, the EPA finds that this action is based on a determination of “nationwide scope or effect” within the meaning of CAA section 307(b)(1). This final action consists of findings of failure to submit required regional haze SIPs for the second planning period from 15 states located in six of the ten EPA Regional offices. This final action is also based on a common core of factual findings concerning the receipt and completeness of the relevant SIP submittals. For these reasons, this final action is nationally applicable or, alternatively, to the extent a court finds this action to be locally or regionally applicable, the Administrator has determined that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1). Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed and shall not postpone the effectiveness of such rule or action. Thus, any petitions for review of this action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

**Michael S. Regan,**

*Administrator.*

[FR Doc. 2022–18678 Filed 8–29–22; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 121004515–3608–02; RTID 0648–XC302]

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2022 Commercial Closure for South Atlantic Red Snapper**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure for red snapper in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings of red snapper have reached the commercial annual catch limit (ACL) for the 2022 fishing year. Therefore, NMFS is closing the commercial sector for red snapper in the South Atlantic EEZ. This closure is necessary to protect the red snapper resource.

**DATES:** This temporary rule is effective from 12:01 a.m., eastern time, on August 31, 2022, through December 31, 2022.

**FOR FURTHER INFORMATION CONTACT:** Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic includes red snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.