

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

NATIONAL PARKS  
CONSERVATION ASSOCIATION,  
MONTANA ENVIRONMENTAL  
INFORMATION CENTER, and  
SIERRA CLUB,

*Petitioners,*

v.

U.S. ENVIRONMENTAL  
PROTECTION AGENCY; LEE  
ZELDIN, Administrator, U.S.  
Environmental Protection Agency; and  
CYRUS WESTERN, Regional  
Administrator, U.S. Environmental  
Protection Agency Region 8,

*Respondents.*

**PETITION FOR REVIEW**

Pursuant to Clean Air Act § 307(b)(1), 42 U.S.C. § 7607(b)(1), and Rule 15 of the Federal Rules of Appellate Procedure, National Parks Conservation Association, Montana Environmental Information Center, and Sierra Club hereby petition this Court for review of the final rule titled “Air Plan Approval; Montana; Regional Haze Plan for the Second Implementation Period.” The final rule was promulgated by Respondents and published in the Federal Register on November 28, 2025 at 90 Fed. Reg. 54,586 (Attachment).

DATED: January 26, 2026

Respectfully submitted,

/s/ Jenny Harbine

Jenny Harbine

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*Counsel for Petitioners National Parks  
Conservation Association, Montana  
Environmental Information Center,  
and Sierra Club*

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the **Petition for Review** on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system. I certify that I have served the petition on Respondents by sending a copy via Certified Mail to each of the following addresses:

Lee Zeldin, Administrator  
U.S. Environmental Protection Agency  
Office of the Administrator  
Mail Code 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Cyrus Western  
Regional Administrator, Region 8  
U.S. Environmental Protection Agency  
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Principal Deputy Assistant Attorney  
General  
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Environment & Natural Resources  
Division  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

I certify under penalty of perjury that the foregoing is true and correct.

Executed on January 26, 2026 in Bozeman, Montana.

/s/ Jenny Harbine  
Jenny Harbine

# **Attachment**



On June 28, 2023, the Copyright Royalty Judges (Judges) adopted final regulations governing the rates and terms of copyright royalty payments under section 118 of the Copyright Act for the license period 2023–2027. *See* 88 FR 41827. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** notice of the change in the cost of living and a revised schedule of the rates codified at § 381.5(c)(3) and (4) relating to compositions in the repertory of SESAC and GMR. The adjustment, fixed to the nearest dollar, shall be the greater of (1) the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) (“CPI-U”) “during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1 of that year” or (2) 1.5%. 37 CFR 381.10.

The change in the cost of living as determined by the CPI-U during the period from the most recent index published prior to the previous notice, *i.e.*, before December 1, 2024, to the most recent index published before December 1, 2025, is 2.9%.<sup>1</sup> In accordance with 37 CFR 381.10(b), the Judges announce that the COLA for calendar year 2026 shall be 2.9%. Application of the 2.9% COLA to the 2025 rates for the performance of published nondramatic musical compositions in the repertory of SESAC and GMR—\$199 per station—results in an adjusted rate of \$205 per station, rounded to the nearest dollar.

#### List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Rates, Television.

#### Final Regulations

In consideration of the foregoing, the Judges amend part 381 of title 37 of the Code of Federal Regulations as follows:

<sup>1</sup> The CPI-U announced on October 24, 2025, by the Bureau of Labor Statistics in its *Consumer Price Index News Release—Consumer Price Index*, is available at <https://www.bls.gov/news.release/pdf/cpi.pdf> at Table 1. The Copyright Royalty Judges note that the October 24, 2025, publication is the most recent CPI-U published by the Secretary of Labor before December 1 of the preceding year of this COLA adjustment (*i.e.*, 2026). The Bureau of Labor statistics has explained “BLS could not collect October 2025 reference period survey data due to a lapse in appropriations.” *See* <https://www.bls.gov/bls/2025-lapse-revised-release-dates.htm> (last visited Nov. 25, 2025). The “change in the cost of living during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1” of this year, *i.e.*, the change from October 2024 to September 2025, is 2.9% ((324.800–315.664)/315.664).

### PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

**Authority:** 17 U.S.C. 118, 801(b)(1) and 803.

■ 2. Section 381.5 is amended by revising paragraphs (c)(3)(iv) and (c)(4)(iv) as follows:

#### § 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

- |      |       |       |     |          |
|------|-------|-------|-----|----------|
| *    | *     | *     | *   | *        |
| (c)  | *     | *     | *   |          |
| (3)  | *     | *     | *   |          |
| (iv) | 2026: | \$205 | per | station. |
| *    | *     | *     | *   | *        |
| (4)  | *     | *     | *   |          |
| (iv) | 2026: | \$205 | per | station. |
| *    | *     | *     | *   | *        |

Dated: November 25, 2025.

**Christina L. Shifton,**

*Interim Chief Copyright Royalty Judge.*

[FR Doc. 2025–21579 Filed 11–26–25; 8:45 am]

**BILLING CODE 1410–72–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R08–OAR–2024–0608; FRL–12597–02–R8]

#### Air Plan Approval; Montana; Regional Haze Plan for the Second Implementation Period

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a regional haze state implementation plan (SIP) revision submitted by the State of Montana on August 10, 2022 (Montana’s 2022 SIP submission), as satisfying applicable requirements under the Clean Air Act (CAA) and the EPA’s Regional Haze Rule (RHR) for the program’s second implementation period. The EPA is also finalizing approval of the prong 4 visibility portion of Montana’s October 1, 2018, Infrastructure SIP submission for the 2015 ozone National Ambient Air Quality Standard (NAAQS). The EPA is taking this action pursuant to the CAA.

**DATES:** This rule is effective on December 29, 2025.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2024–0608. 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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

#### FOR FURTHER INFORMATION CONTACT:

Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6103; email address: [singh.amrita@epa.gov](mailto:singh.amrita@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

#### Table of Contents

- I. What is being addressed in this document?
- II. Background
- III. Public Comments and EPA Responses
- IV. Final Action
- V. Statutory and Executive Order Reviews

#### I. What is being addressed in this document?

The EPA is approving a SIP revision submitted by the State of Montana to the EPA on August 10, 2022, addressing the requirements of the second implementation period of the RHR. 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. The rule requires the states, in coordination with the EPA, the National Park Service, 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<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), and, in some cases, volatile organic compounds (VOC) and ammonia (NH<sub>3</sub>)). As discussed in further detail in our proposed rule, this document, and the accompanying Response to Comments



(RTC) document, the EPA finds that Montana submitted a regional haze SIP that meets all the regional haze requirements for the second implementation period. The State's submission, the proposed rule, and the RTC document can be found in the docket for this action.

## II. Background

On August 10, 2022, Montana submitted a revision to its SIP to address its regional haze obligations for the second implementation period (2018–2028). Montana made this 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.

On September 11, 2025, the EPA proposed to approve Montana's 2022 SIP submission.<sup>1</sup> Specifically, the EPA proposed to approve Montana's 2022 SIP submission as satisfying the requirements of 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress; 40 CFR 51.308(f)(2): long-term strategy; 40 CFR 51.308(f)(3): reasonable progress goals; 40 CFR 51.308(f)(4): reasonably attributable visibility impairment; 40 CFR 51.308(f)(5) and 40 CFR 51.308(g): progress report requirements; 40 CFR 51.308(f)(6): monitoring strategy and other implementation plan requirements; and 40 CFR 51.308(i): Federal Land Manager (FLM) consultation. Our public comment period closed on October 14, 2025.

The September 11, 2025, proposed rule provided background on the requirements of the CAA and RHR, a summary of Montana's regional haze SIP submittal and related EPA actions, and the EPA's rationale for its proposed action. That background and rationale will not be restated here. For the reasons stated in the proposed rule, this document, and in the accompanying RTC document, the EPA concludes that Montana's 2022 SIP submission meets the requirements of the CAA and RHR.

## III. Public Comments and EPA Responses

The public comment period on the proposal closed on October 14, 2025. During the public comment period, we received 16 comments on our proposal: 1 in support and 15 in opposition. The commenters were: Conservation Groups,<sup>2</sup> the Mid-Atlantic/Northeast Visibility Union (MANEVU),<sup>3</sup> Cabinet

Resource Group,<sup>4</sup> Talen Montana,<sup>5</sup> and eight individual commenters.<sup>6</sup> The full text of comments received is included in the publicly posted docket associated with this action at <https://www.regulations.gov>. Our RTC document, which is also included in the docket associated with this action, provides detailed responses to all significant comments received.

## IV. Final Action

For the reasons stated in the preamble to the proposed rule, in the RTC document, and in this document, we are approving Montana's 2022 SIP submission. Specifically, we are approving Montana's 2022 SIP submission relating to CAA 169A:

- Calculations of baseline, current, and natural visibility conditions, progress to date, and uniform rate of progress (40 CFR 51.308(f)(1));
- Long-term strategy (40 CFR 51.308(f)(2));
- Reasonable progress goals (40 CFR 51.308(f)(3));
- Reasonably attributable visibility impairment (40 CFR 51.308(f)(4));
- Progress report requirements (40 CFR 51.308(f)(5) and 40 CFR 51.308(g));
- Monitoring strategy and other implementation plan requirements (40 CFR 51.308(f)(6));
- FLM consultation (40 CFR 51.308(i)).

In addition, we are approving the prong 4 visibility portion of Montana's October 1, 2018 Infrastructure SIP submission for the 2015 ozone NAAQS.

## V. Statutory and Executive Order Reviews

Under the CAA, 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025)

because State Implementation Plan approvals under the CAA 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, 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);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act (CRA), and 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 27, 2026. 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)).

<sup>1</sup> 90 FR 43958 (September 11, 2025).

<sup>2</sup> Letter dated October 14, 2025.

<sup>3</sup> Letter dated October 14, 2025.

<sup>4</sup> Letter dated October 14, 2025.

<sup>5</sup> Letter dated October 14, 2025.

<sup>6</sup> Letters dated from September 29, 2025 to October 14, 2025.



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

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 17, 2025.

**Cyrus M. Western,**

*Regional Administrator, Region 8.*

For the reasons stated in the preamble, the Environmental Protection

Agency is amending 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 BB—Montana**

- 2. In § 52.1370:

- a. Amend the table in paragraph (e) by:

- i. Under the center heading “(1) Statewide”, adding the entries “Montana Regional Haze State Implementation Plan” and “Interstate Transport Requirements of the CAA, section 110(a)(2)(D)(i)(II) prong 4, for the 2015 Ozone NAAQS” after the entry “Interstate Transport Requirements of the CAA, section 110(a)(2)(D)(i)(I), for the 2015 Ozone NAAQS” to read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

Title/subject	State effective date	Notice of final rule date	NFR citation
<b>(1) Statewide</b>			
* * * * *			
Montana Regional Haze State Implementation Plan .....	8/10/2022	11/28/2025	90 FR [insert <b>Federal Register</b> page where the document begins].
Interstate Transport Requirements of the CAA, section 110(a)(2)(D)(i)(II) prong 4, for the 2015 Ozone NAAQS.	8/22/2018	11/28/2025	90 FR [insert <b>Federal Register</b> page where the document begins].
* * * * *			

[FR Doc. 2025–21340 Filed 11–26–25; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 423**

[EPA–HQ–OW–2009–0819; FRL–8794.3–03–OW]

RIN 2040–AG48

**Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category—Initial Notification Date Extension; Withdrawal of Direct Final Rule**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Because the U.S. Environmental Protection Agency (EPA) received adverse comment, it is withdrawing the direct final rule entitled, “Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category—Initial Notification Date

Extension,” published in the **Federal Register** on October 2, 2025.

**DATES:** Effective November 28, 2025, the EPA withdraws the direct final rule published at 90 FR 47617, on October 2, 2025.

**FOR FURTHER INFORMATION CONTACT:**

Richard Benware, Engineering and Analysis Division Office of Water (Mail Code 4303T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–1369; email address: [benware.richard@epa.gov](mailto:benware.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:** Because the EPA received adverse comment, the Agency is withdrawing the direct final rule entitled, “Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category—Initial Notification Date Extension,” published on October 2, 2025 (90 FR 47617). The EPA stated in that direct final rule that if it received adverse comment by November 3, 2025, the direct final rule would not take effect, and the EPA would publish a timely withdrawal in the **Federal Register**. Because the EPA subsequently received adverse comment on that direct

final rule, it is withdrawing the direct final rule.

The EPA published a companion proposed rule on the same day as the direct final rule (90 FR 47693). The proposed rule invited comment on the substance of the direct final rule (as well as on additional subjects). The EPA will address those comments in a subsequent final action, which will be based on the companion proposed rule. As stated in the direct final rule and the companion proposed rule, the EPA will not institute a second comment period on this subject.

**List of Subjects in 40 CFR Part 423**

Environmental protection, Electric power generation, Power facilities, Waste treatment and disposal, Water pollution control.

**Lee Zeldin,**

*Administrator.*

- Accordingly, as of November 28, 2025], the EPA withdraws the direct final rule amending 40 CFR part 423, which published at 90 FR 47617, on October 2, 2025.

[FR Doc. 2025–21426 Filed 11–26–25; 8:45 am]

BILLING CODE 6560–50–P