



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0316; FRL-9964-74-Region 9]

Approval and Promulgation of State Implementation Plans; Nevada; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Nevada Regional Haze State Implementation Plan (SIP) submitted by the Nevada Division of Environmental Protection. The revision consists of the “Nevada Regional Haze 5-Year Progress Report” that addresses Regional Haze Rule requirements under the Clean Air Act to document progress towards achieving visibility goals by 2018 in Class I Federal areas in Nevada and nearby states. The EPA is taking final action to approve Nevada’s determination that the regional haze requirements in the existing Nevada Regional Haze SIP do not require any substantive revision at this time.

DATES: This rule is effective [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: The EPA has established docket number EPA–R09–OAR–2015–0316 for this action. Generally, documents in the docket are available electronically at <https://www.regulations.gov> or in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. Please note that while many of the documents in the docket are listed at <https://www.regulations.gov>, some information may be publicly available only at the hard copy

location (*e.g.*, copyrighted material, large maps, multi-volume reports, or otherwise voluminous materials), and some may not be available at either location (*e.g.*, confidential business information). To inspect the hard copy materials that are publicly available, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Krishna Viswanathan, EPA, Region IX, Air Division, AIR-2, 75 Hawthorne Street, San Francisco, CA 94105. Krishna Viswanathan may be reached at (520) 999-7880 or viswanathan.krishna@epa.gov.

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I. Overview of Proposed Action

The Nevada Division of Environmental Protection (NDEP or “the State”) submitted the Nevada Regional Haze 5-Year Progress Report (“Progress Report”) to the EPA on November 18, 2014, to satisfy the Regional Haze Rule requirements codified at 40 CFR 51.308(g), (h), and (i). As described in our proposal, NDEP has demonstrated in its Progress Report that the emission control measures in the existing Nevada Regional Haze SIP are adequate to make progress towards the reasonable progress goals (RPGs) in Class I Federal areas in Nevada and in nearby states that may be affected by emissions from sources in Nevada without requiring any substantive revisions to the Nevada Regional Haze SIP. Our proposal discussed each element required under 40 CFR 51.308(g), (h), and (i) for an approvable progress report, summarized

how the Progress Report addressed each element, and provided our evaluation of the adequacy of the Progress Report for each element. Please refer to our proposed rule for background information on the Regional Haze Rule, the Nevada Regional Haze SIP, and the specific requirements for progress reports.

II. Public Comments and EPA Responses

We received comment letters on our proposed approval of the Progress Report from NDEP,¹ the Sierra Club jointly with the National Parks Conservation Association (“NGOs”),² and two additional, anonymous commenters.³ The following discussion contains our summary of the comments and our response to each significant comment.

Comments from NDEP:

Comment: NDEP commented that the EPA’s characterization of the retirement of Reid Gardner Generating Station (RGGS) units 1, 2 and 3 and Tracy Generating Station units 1 and 2, as well as switching of several units at Tracy and Fort Churchill Generating Stations to natural gas as “largely in response to Senate Bill (SB) 123 (2013 Legislative Session)” was not accurate. NDEP commented that the retirement of units 1, 2 and 3 at RGGS was a response to Nevada Senate Bill 123, but that the other facilities undertook retirement or fuel switching to comply with Best Available Retrofit Technology (BART) requirements.

Response: The EPA acknowledges this clarification. The clarification does not have any effect on our proposed approval of the Progress Report.

¹ Letter from Jeffrey King (NDEP) to Vijay Limaye (EPA) (October 19, 2015).

² Letter from Gloria D. Smith (Sierra Club) and Stephanie Kodish (NPCA) to Vijay Limaye (EPA) (October 19, 2015)(“NGOs’ Comment Letter”).

³ See Comments EPA-R09-OAR-2015-0316-0070 and EPA-R09-OAR-2015-0316-0073 in the docket.

Comment: NDEP requested that the EPA rescind the Federal Implementation Plan (FIP) for RGGGS as part of our final rulemaking on the Progress Report because units 1, 2 and 3 of RGGGS permanently shut down in 2014.

Response: The EPA intends to rescind the FIP applicable to units 1, 2 and 3 of RGGGS in a separate action.

Comment: NDEP commented on Table 5, which mistakenly referenced Table 4-2 from the Progress Report rather than Table 4-4, and the last paragraph on 80 FR at 55811, which incorrectly cited the range of annual sulfate averages as “4.10 to 50.5 percent” rather than “41.0 to 50.5 percent.”

Response: The EPA acknowledges these corrections. The corrections do not have any effect on our proposed approval of the Progress Report.

Comment: NDEP commented that in the third paragraph of the EPA’s proposed rulemaking, the EPA states that NDEP attributed the large contribution from particulate organic matter (POM) on the worst days at the Jarbidge Wilderness Area (“Jarbidge”) mostly to wildfires and windblown dust, while NDEP itself attributes POM largely to emissions from wildfires.

Response: The EPA acknowledges this clarification. The clarification does not have any effect on our proposed approval.

Comment: NDEP expressed support for the EPA’s proposal to approve NDEP’s determination that its Nevada Regional Haze SIP requires no substantive revisions at this time, given the demonstrated improvement to nitrate and sulfate visibility impairment.

Response: The EPA acknowledges the comment.

Comments from the NGOs:

Comment: The NGOs asserted that “NDEP’s and EPA’s findings that the Nevada Regional Haze SIP is adequate to show reasonable progress for Jarbidge towards the national visibility goal are not supported.” The commenters noted that the preamble to the 1999 Regional Haze Rule explains that a state may submit a declaration under 40 CFR 51.308(h)(1) “if the state finds that the emission management measures in the SIP are being implemented on schedule, and visibility improvement appears to be consistent with reasonable progress goals.”⁴ The commenter noted that NDEP proposed such a declaration, and that the EPA had proposed to concur with the State’s declaration, despite the fact that visibility improvement at Jarbidge was not improving at a rate consistent with achieving NDEP’s 2018 RPG. The commenter also noted that NDEP’s RPG for the worst days at Jarbidge was based on modeling conducted by the Western Regional Air Partnership (WRAP) that was subsequently found to be in error and that revised modeling predicts 2018 visibility impacts for the worst days at Jarbidge that are not on the “glide path” towards the national visibility goal.

Response: Initially, we note that, while the commenters refer to “the national visibility goal” (*i.e.*, the “prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution”⁵), their primary concern appears to be progress toward the 2018 RPG for the 20 percent worst days at Jarbidge. The EPA agrees that the Progress Report does not demonstrate that visibility conditions at Jarbidge will necessarily meet the RPG of 11.05 deciviews (dv) on the 20 percent worst days by 2018. The EPA acknowledged this fact in our proposal to approve the Progress Report. We stated that the visibility conditions based on the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring data for the 20 percent worst days for

⁴ 64 FR 35747 (July 1, 1999).

⁵ 42 U.S.C. 7491(a)(1).

Jarbridge were relatively flat or only slightly improving. However, this fact does not preclude NDEP from making a declaration under § 51.301(h)(1). The statement in the preamble to the 1999 Regional Haze Rule described one possible basis for such a declaration that may be the most concise in certain situations, but was not a statement of the only possible basis. Rather, the Regional Haze Rule itself allows a state to submit a declaration if, “based upon the information presented in the progress report . . . the State determines that the existing implementation plan *requires no further substantive revision at this time* in order to achieve established goals for visibility improvement and emissions reductions . . .”⁶ In this instance, NDEP presented information in the Progress Report that establishes that the overall lack of progress in monitored visibility conditions on the 20 percent worst days at Jarbridge is not due to a flaw in the SIP itself, but due in large part to extrinsic factors, as described below, that could not be addressed through a substantive revision to the SIP.

In particular, as explained in our proposal, the Progress Report demonstrates that current (*i.e.*, 2008-2012) visibility conditions on the 20 percent worst days at Jarbridge are strongly influenced by light extinction due to POM, which derives primarily from natural sources, as well as coarse particulate mass, which partially derives from natural sources.⁷ POM was the largest contributor to light extinction on the 20 percent worst days in each of the 5-year periods from the baseline to current time period, accounting for 35.5 to 43.0 percent of extinction, followed by coarse particulate mass (21.9 to 26.1 percent), and sulfate (15.1 to 17.0 percent). Furthermore, over the course of the progress period there was a significant increase in extinction from POM (1.1 dv) and a small increase in extinction from coarse particulate mass. By contrast, there were small *decreases* in extinction from sulfate and nitrate (which derive primarily from

⁶ 40 CFR 51.308(h)(1) (emphasis added).

⁷ 80 FR 55811.

anthropogenic emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x).⁸ Thus, the overall lack of improvement in monitored visibility conditions on the 20 percent worst days at Jarbidge is largely attributable to an increase in extinction from non-anthropogenic pollutants, which could not be remedied by a revision to the Nevada Regional Haze SIP.

In addition to demonstrating the large influence of non-anthropogenic pollutants, the Progress Report also establishes the significant impact of out-of-state sources on Jarbidge. In particular, the Progress Report refers to source apportionment modeling performed by the WRAP to evaluate source areas that contribute to sulfate and nitrate extinction on the 20 percent worst days at Jarbidge. As noted in our proposal, this modeling indicated that the Outside Domain source category (*i.e.*, the background concentrations of pollutants from international sources) was expected to contribute 43.8 percent of the modeled sulfate and 27.5 percent of the modeled nitrate at Jarbidge in 2018.⁹ The WRAP source apportionment modeling also indicated that emissions from upwind states, particularly Idaho and Oregon, also contribute substantially to visibility impairment at Jarbidge. As with non-anthropogenic emissions, these out-of-state emissions could not be directly addressed through a revision to the Nevada Regional Haze SIP. While NDEP could potentially have provided notification concerning these out-of-state emissions under 40 CFR 51.308(h)(2) and/or (h)(3), we find it was reasonable for the State not to have done so, given that the overall contributions of sulfate and nitrate on the 20 percent worst days at Jarbidge are modest and have declined since the baseline period.

Finally, with regard to the modeling underlying the 2018 RPG, as explained in response to a similar comment below, no revision to the Nevada Regional Haze SIP is required to address the WRAP modeling correction noted by the commenters. For these reasons, and taking

⁸ 80 FR 55812, Table 5.

⁹ 80 FR 55816.

into consideration the large reductions in anthropogenic emissions of SO₂ and NO_x already achieved in Nevada during this planning period,¹⁰ we find that the State has adequately supported its determination that no further substantive revision to the Nevada Regional Haze SIP is needed at this time.

Comment: The NGOs reiterated that visibility improvement at Jarbidge is not consistent with NDEP's 2018 RPG for the 20 percent worst days.¹¹ The commenters also criticized NDEP's reliance in its declaration on emission reductions from units that have shut down or converted to natural gas at the Mohave, Reid Gardner, Tracy and Fort Churchill generating stations because those units affect Class I Federal areas in other states, rather than Jarbidge. The NGOs noted that NDEP did not provide modeling to evaluate the impact of these emissions reductions on visibility at Jarbidge and asserted that data from the IMPROVE monitors at Jarbidge do not demonstrate a significant improvement in visibility on the 20 percent worst days. The comment concluded that, "visibility on the 20 percent worst days at the Jarbidge Class I area is not improving in a manner consistent with Nevada's 2018 [RPG] of 11.05 [dv] for the 20 percent worst days, and...emission reductions from the Reid Gardner, Tracy, and Fort Churchill power plants are not likely to ensure the Jarbidge Wilderness achieves the 11.05 dv [RPG] for the 20 percent worst days by 2018."¹²

Response: As noted previously, the EPA agrees that the Progress Report does not demonstrate that visibility conditions at Jarbidge will necessarily meet the RPG of 11.05 at Jarbidge on the 20 percent worst days by 2018. However, there is no regulatory requirement for NDEP to demonstrate in the Progress Report that Nevada will meet the RPG. Rather, the purpose

¹⁰ See 80 FR 55810 for a summary of these reductions.

¹¹ NGOs' Comment Letter at p. 2.

¹² NGOs' Comment Letter at p. 3.

of a Progress Report is to “evaluat[e] progress towards the [RPG]”¹³ by providing specific types of data and analyses concerning visibility conditions and emissions and to make a determination of adequacy under 40 CFR 51.308(h), based on this information. If a state determines that the implementation plan is inadequate to ensure reasonable progress due to emissions from sources within that state, it is required to revise its SIP within one year to address the issue. Our proposal evaluated the Progress Report with respect to each of the requirements in 40 CFR 51.308(g) and (h), and concluded that it was adequate. The NGOs’ comment has not provided any new information or data that would change our proposed approval of the Progress Report as meeting these requirements.

We also do not agree with the commenters that it was improper for the State to rely on emission reductions from power generating stations that are not located near Jarbidge in making its declaration. The Regional Haze Rule requires progress reports to include a “summary of emission reductions” and specifically refers to such reductions as a relevant consideration in determining whether substantive revision to the SIP is required.¹⁴ Such consideration is not limited to those emissions that have been demonstrated to affect in-state Class I areas. Rather, the Regional Haze Rule expressly requires progress reports to consider “each mandatory Class I Federal area located outside the State, which may be affected by emissions from within the State.”¹⁵ Therefore, it was appropriate for the State to consider all emissions reductions within the State that could affect any in-state or out-of-state Class I Federal area. In this case, we find that NDEP appropriately took into account emission reductions throughout the State. Thus, the comment letter does not provide any basis for us to change our proposed finding that the

¹³ 40 CFR 51.308(g).

¹⁴ 40 CFR 51.308(g)(2) and (h)(1).

¹⁵ 40 CFR 51.308(g).

Progress Report complies with the requirements under 40 CFR 51.308(g), (h) and (i) and that NDEP is not required to make any substantive revisions to the Nevada Regional Haze SIP at this time.

Comment: The NGOs' second comment contends that the 11.05 dv RPG for the 20 percent worst days at Jarbidge was based on flawed modeling and preliminary emissions projections for 2018, rather than later, updated projections. The commenters assert that the EPA is ignoring this issue and thereby implying that Jarbidge will be on the glide path "based on the emission reductions that have occurred and that will occur at Nevada sources in the next few years." The NGOs commented that there is "no modeling or other data demonstrating that the reduction of haze-forming pollution from these sources will provide sufficient and reasonable visibility improvement at Jarbidge Wilderness area." The NGOs also requested that the EPA "not allow NDEP to rely on an unjustified and unsupported 2018 reasonable progress goal for the 20% worst days at the Jarbidge Wilderness."

Response: The EPA agrees with the commenter that the WRAP submitted additional information in April 2011 relevant to the modeling that established the 2018 RPG of 11.05 dv for Jarbidge on the 20 percent worst days. However, the regulations governing the required contents for a Progress Report do not include reviewing and revising RPGs, and the NGOs have not provided any citation to such a requirement for an approvable Progress Report. The RPGs for Jarbidge were established in Nevada's Regional Haze SIP. The EPA approved the Nevada Regional Haze SIP in 2012, and in doing so approved the RPG of 11.05 dv on the 20 percent worst days for Jarbidge.¹⁶ In our proposed approval, we noted that "the EPA addressed the uncertainties associated with modeled projections by making the RPG an analytic tool for the

¹⁶ See 76 FR 36450, 36465 (June 22, 2011) (proposed approval); 77 FR 17334, 17339 (March 26, 2012) (final approval).

purpose of evaluating progress, not an enforceable standard.”¹⁷ We then concluded that the WRAP modeling correction and revisions to emissions projections did not require NDEP to withdraw and revise its Regional Haze SIP after it had already been adopted and submitted. The commenter has not pointed to any basis for us to reconsider this determination at this time. Furthermore, if NDEP had revised the RPG to 11.82 dv to reflect the WRAP modeling correction, the monitoring data at Jarbidge would be assessed relative to a lower amount of progress, so Jarbidge would now be *closer* to achieving the RPG.

We also agree with the commenter that there is uncertainty regarding what the ultimate effect of recent emissions reductions on visibility conditions at Jarbidge will be as of 2018. However, contrary to the commenter’s suggestion, in the context of the Progress Report, there is no requirement for NDEP or the EPA to conduct modeling to evaluate whether these emissions reductions are sufficient for Jarbidge to be on the glide path (*i.e.*, to achieve natural conditions by 2064) or to meet the 2018 RPG for the 20 percent worst days. Thus, we do not agree with the commenter that NDEP is improperly “rely[ing]” on the existing 2018 RPG for the 20 percent worst days at Jarbidge. Rather, in its Progress Report, NDEP has used this approved 2018 RPG as a benchmark for measuring progress that has occurred to date, as required by the Regional Haze Rule.¹⁸

Comment: The NGOs’ comment letter asserts that the visibility impact of wildfires does not exempt NDEP from adopting measures to address contributions from stationary and area emissions sources that may be affecting visibility impairment at Jarbidge.¹⁹ The comment letter claims specifically that the North Valmy Generating Station (NVGS) should have been evaluated

¹⁷ *Id.* at 36464 (citing 40 CFR 51.308(d)(1)(v) and 64 FR 35733).

¹⁸ *See, e.g.*, 40 CFR 51.308(g) (requiring submittal of “a report . . . evaluating progress towards the reasonable progress goal”).

¹⁹ NGOs’ Comment Letter at p. 5.

to determine if reasonable progress controls were required because it is located 160 kilometers from Jarbidge and emits SO₂ and NO_x without modern pollution controls. The comment letter contrasts the emissions from NVGS to the projected emissions from Ely Energy Center, a proposed new facility that was analyzed for visibility impact but was not constructed. The commenters suggested that, since the Ely Energy Center was projected to have an impact on Jarbidge, NVGS likely also has an impact on Jarbidge. The comment letter faults NDEP for failing to require reasonable progress controls at NVGS. The NGOs also state that NDEP should use “appropriate regulatory tools” to minimize emissions from oil and gas development in Nevada.

Response: The EPA agrees that wildfire emissions do not “exempt” NDEP from requirements to address anthropogenic pollution, but we find that NDEP has met the applicable requirements for a Progress Report. Specifically, NDEP established in its Progress Report that progress toward achieving the RPG of 11.05 dv at Jarbidge on the 20 percent worst days by 2018 has not been impeded by any significant anthropogenic emission changes within or outside the State.²⁰ NDEP reached this conclusion by evaluating significant emission decreases from stationary sources within Nevada, the effect of emissions from sources outside of Nevada on Jarbidge, and the effect of Nevada’s emissions on nearby Class I Federal areas that are outside of Nevada. In the Progress Report, NDEP documented a substantial reduction in anthropogenic emissions from stationary sources in Nevada as well as an improvement in visibility at Jarbidge even though BART controls and other state and federal measures are not yet fully implemented. NDEP also demonstrated that relative to contributions from Idaho, Oregon, and sources outside

²⁰ Nevada Regional Haze 5-year Progress Report, Chapter Six – Assessment of Changes Impeding Visibility Progress (40 CFR 51.308(g)(5)).

the U.S. (Outside Domain), Nevada's overall stationary source contribution to visibility impairment at Jarbidge is small on the 20 percent worst days.²¹

With regard to NVGS, we note that in the EPA's approval of the Nevada Regional Haze SIP, we determined that NDEP had reasonably weighed the cost of additional emissions controls against the potential benefits and concluded that additional controls were not warranted for non-BART sources such as NVGS during the first planning period. NDEP would only be required to revisit this conclusion during this first planning period if it had determined that the Nevada Regional Haze SIP "is or may be inadequate to ensure reasonable progress due to emissions from sources within the State" under 40 CFR 51.308(h)(4). However, as discussed elsewhere in this document, NDEP instead made a well-supported declaration under 40 CFR 51.308(h)(1), and the EPA is approving this declaration. One of the elements of the State's analysis supporting its negative declaration was its showing that the overall lack of improvement on the 20 percent worst days at Jarbidge has been largely due to non-anthropogenic pollutants and out-of-state emissions, rather than to emissions of SO₂ and NO_x from anthropogenic sources such as NVGS. For example, in the 2008-2012 time period (the most recent data provided in the Progress Report), nitrates and sulfates accounted for 3.5 percent and 15.1 percent of total extinction on the 20 percent worst days respectively.²² Furthermore, source apportionment modeling indicates that the majority of this extinction is from out-of-state sources, rather than in-state sources such as NVGS.²³ Thus, additional emission reductions from sources such as NVGS would have relatively little effect on progress toward the RPG for the 20 percent worst days for this first

²¹ Nevada Regional Haze State Implementation Plan, October 2009, Chapter 4, Table 4-5.

²² Nevada Regional Haze 5-year Progress Report Table 4-4.

²³ Nevada Regional Haze State Implementation Plan, October 2009, Chapter 4, Tables 4-5 and 4-6.

planning period.²⁴ Accordingly, NDEP is not required to re-evaluate controls on non-BART sources such as NVGS for the first planning period. NDEP will be required to evaluate such controls in developing its Regional Haze SIP for the next planning period.

Comment: The NGOs' comment letter concludes that the EPA "must require NDEP to evaluate and adopt measures to ensure the Jarbidge Wilderness achieves reasonable progress towards the national visibility goal in accordance with 40 C.F.R. §51.308(h)(4) and no later than the revised regional haze plan due in 2018." Specifically, the NGOs are requesting that the EPA:

- (1) Find that NDEP's [RPG] for the 20 percent worst days at the Jarbidge Wilderness is *not* based on a proper modeling analysis;
- (2) Establish a more realistic RPG goal, a goal based on proper modeling and planned emission reduction requirements required under the Nevada regional haze plan and state law. A proper goal would show that visibility is not expected to improve at the Jarbidge Wilderness in a manner consistent with achieving natural background visibility by 2064; and
- (3) Ensure that NDEP evaluates and adopts additional measures to achieve reasonable progress towards the national visibility goal at the Jarbidge Wilderness.²⁵

Response: The EPA's role is to review progress reports as they are submitted by the states and to either approve or disapprove the reports based on their compliance with the requirements of the Regional Haze Rule. There is no requirement or basis for the EPA to reassess or revise the RPGs for Jarbidge as part of our review of NDEP's Progress Report.

²⁴ We note that in the recent revisions to the Regional Haze Rule, the EPA finalized a requirement that states select the 20 percent most impaired days, *i.e.*, the days with the most impairment from anthropogenic sources, as the "worst" days in SIPs and in progress reports. *See* 82 FR 3103 (January 10, 2017) (codified at 40 CFR 51.301). Thus, we expect that in the next planning period, anthropogenic sources such as NVGS will have a larger influence on the worst days at Jarbidge.

²⁵ NGOs' Comment Letter at p. 6-7.

Furthermore, as explained in our prior responses, nothing in the Regional Haze Rule requires NDEP to adopt additional reasonable progress measures based solely on the fact that Jarbidge will not necessarily meet its 2018 RPG for the worst 20 percent days or based solely on the fact that Jarbidge is not on the glide path. The Progress Report complies with all applicable requirements and contains a reasoned justification for determining that the Nevada Regional Haze SIP is adequate without additional measures. NDEP will undertake a new round of planning in the next few years, at which time it will be required to evaluate additional control measures and set new RPGs for Jarbidge for the next planning period based on updated, current information, including new emissions inventories and modeling.

Anonymous Comments:

Comment: Two anonymous commenters requested that the EPA “require the best possible reductions in air pollution from Rocky Mountain Power's coal plants” via its action on Utah's Regional Haze plan.

Response: These comments appear to be misdirected and are not relevant to the current rulemaking action. The EPA took final action on the Utah Regional Haze plan on July 5, 2016.²⁶

III. Summary of Final Action

The EPA is taking final action to approve the Nevada Regional Haze Plan 5-Year Progress Report submitted to the EPA on November 18, 2014, as meeting the applicable Regional Haze Rule requirements as set forth in 40 CFR 51.308(g), (h), and (i). In addition, we are re-codifying our prior approval of the Nevada Regional Haze SIP in order to correct its location within 40 CFR 52.1470(e). This recodification has no effect on the substantive content of the Nevada SIP.

²⁶ 81 FR 43894.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations.²⁷ 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 approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

²⁷ 42 U.S.C. 7410(k); 40 CFR 52.02(a).

- 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 Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. 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 oxides, Organic carbon, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, Volatile organic compounds.

Dated: July 24, 2017.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 DD—Nevada

2. Section 52.1470, paragraph (e), the table is amended by:

a. Removing the last entry “Nevada Regional Haze State Implementation Plan (October 2009), excluding the BART determination for NO_x at Reid Gardner Generating Station in sections 5.5.3, 5.6.3 and 7.2, which EPA has disapproved”; and

b. Adding, under the heading “Air Quality Implementation Plan for the State of Nevada” two entries before the entry “Small Business Stationary Source Technical and Environmental Compliance Assistance Program”.

The addition reads as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
AIR QUALITY IMPLEMENTATION PLAN FOR THE STATE OF NEVADA¹				
**	*	*		***

Nevada Regional Haze State Implementation Plan (October 2009), excluding the BART determination for NO _x at Reid Gardner Generating Station in sections 5.5.3, 5.6.3 and 7.2, which the EPA has disapproved	State-wide	11/18/09	77 FR 50936 (8/23/12)	Excluding Appendix A (“Nevada BART Regulation”). The Nevada BART regulation, including NAC 445B.029, 445B.22095, and 445B.22096, is listed above in 40 CFR 52.1470(c).
Nevada Regional Haze Plan 5-Year Progress Report	State-wide	11/18/2014	[Insert Federal Register citation], [Insert Date of Publication]	
**	*	*	*	**
*	*	*	*	*

¹The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

3. Section 52.1488 is amended by adding paragraph (g) to read as follows:

§ 52.1488 Visibility protection.

* * * * *

(g) *Approval.* On November 18, 2014, the Nevada Division of Environmental Protection submitted the “Nevada Regional Haze Plan 5-Year Progress Report” (“Progress Report”). The Progress Report meets the requirements of the Regional Haze Rule in 40 CFR 51.308.

[FR Doc. 2017-16491 Filed: 8/7/2017 8:45 am; Publication Date: 8/8/2017]