

the instructions issued with respect thereto. \* \* \*

\* \* \* \* \*

#### **§ 53.6071–1 [Amended]**

■ **Par. 4.** Section 53.6071–1 is amended by:

- 1. Redesignating paragraph (i) as paragraph (j).
- 2. Adding new paragraphs (i) and (j)(3).

The additions read as follows:

#### **§ 53.6071–1 Time for filing returns.**

\* \* \* \* \*

(i) *Taxes under section 4960, 4966, 4967, or 4968.* A person (including a governmental entity) required by § 53.6011–1(b) to file a return for a tax imposed by section 4960(a), 4966(a), 4967(a), or 4968(a) in a taxable year must file the Form 4720 on or before the 15th day of the fifth month after the end of the person's taxable year (or, if the person has not established a taxable year for Federal income tax purposes, the person's annual accounting period). (j) \* \* \*

(3) Paragraph (i) of this section applies on and after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

**Kirsten Wielobob,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2018–24285 Filed 11–5–18; 4:15 pm]

**BILLING CODE 4830–01–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA–R08–OAR–2018–0606; FRL–9986–09–Region 8]

#### **Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to Regional Haze State Implementation Plan; Revisions to Regional Haze Federal Implementation Plan**

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On October 11, 2018, the Environmental Protection Agency (EPA) published in the **Federal Register** a proposed rule pertaining to revisions to the regional haze State Implementation Plan (SIP) and Federal Implementation Plan (FIP) for Wyoming and requested comments by November 13, 2018. The EPA is extending the comment period

for the proposed rule until December 10, 2018.

**DATES:** Written comments must be received on or before December 10, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2018–0606, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](https://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that, if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jaslyn Dobrahner, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado, 80202–1129, (303) 312–6252, [dobrahner.jaslyn@epa.gov](mailto:dobrahner.jaslyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever

“we,” “us,” or “our” is used, we mean the EPA.

On October 11, 2018 (83 FR 51403), we published in the **Federal Register** a proposed rule pertaining to revisions to the regional haze SIP and FIP for Wyoming and requested comment by November 13, 2018. Specifically, the SIP revisions modify the sulfur dioxide (SO<sub>2</sub>) emissions reporting requirements for Laramie River Station Units 1 and 2. The revisions to the FIP revise the nitrogen oxides (NO<sub>x</sub>) best available retrofit technology (BART) emission limits for Laramie River Units 1–3 and establish a SO<sub>2</sub> emission limit averaged annually across both Laramie River Station Units 1 and 2.

We received a request from several organizations to extend the comment period and, in response, we are extending the comment period to December 10, 2018.<sup>1</sup>

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

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

Dated: November 2, 2018.

**Douglas Benevento,**

*Regional Administrator, Region 8.*

[FR Doc. 2018–24366 Filed 11–6–18; 8:45 am]

**BILLING CODE 6560–50–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA–R08–OAR–2018–0607; FRL–9986–03–Region 8]

#### **Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to Regional Haze State Implementation Plan**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a source-specific revision to the Wyoming State Implementation Plan (SIP) that provides an alternative to Best Available Retrofit Technology (BART) for Unit 3 at the Naughton Power Plant (“the SIP revision”) that is owned and operated by PacifiCorp. The EPA proposes to find that the BART alternative for Naughton Unit 3 would provide greater reasonable progress toward natural visibility

<sup>1</sup> A copy of the letter requesting the extension appears in the docket for this action.

conditions than BART in accordance with the requirements of section 110 of the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR). The SIP revision was submitted by the State of Wyoming on November 28, 2017.

The SIP revision for Naughton Unit 3 was submitted along with Wyoming's 5-year progress report, which is required under the Regional Haze Rule. However, the EPA is not proposing to act on the 5-year progress report in this rulemaking.

**DATES:** Written comments must be received on or before December 7, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2018-0607, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Aaron Worstell, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6073, [worstell.aaron@epa.gov](mailto:worstell.aaron@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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## I. General Information

### A. Definitions

For the purpose of this document, we are giving meaning to certain words or acronyms as follows:

- The words *Wyoming* and *State* mean the State of Wyoming.
- The word *Naughton* refers to the Naughton Plant.
- The initials *BART* mean or refer to Best Available Retrofit Technology.
- The term *Class I area* refers to a mandatory Class I federal area.<sup>1</sup>
- The initials *CAA* mean or refer to the Clean Air Act.
- The initials *CBI* mean or refer to Confidential Business Information.
- The initials *EGU* mean or refer to Electric Generating Unit.
- The words *EPA*, *we*, *us*, or *our* mean or refer to the United States Environmental Protection Agency.
- The initials *FGR* mean flue gas recirculation.
- The initials *FIP* mean or refer to Federal Implementation Plan.
- The initials *LNB* mean or refer to low-NO<sub>x</sub> burners.
- The initials *MMBtu* mean or refer to million British thermal units.
- The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.
- The initials *NO<sub>x</sub>* mean or refer to nitrogen oxides.
- The initials *OFA* mean or refer to over fire air.
- The initials *PM* mean or refer to Particulate Matter, which is inclusive of PM<sub>10</sub> (particulate matter less than or equal to 10 micrometers) and PM<sub>2.5</sub> (particulate matter less than or equal to 2.5 micrometers).
- The initials *SCR* mean or refer to Selective Catalytic Reduction.
- The initials *SIP* mean or refer to State Implementation Plan.
- The initials *SO<sub>2</sub>* mean or refer to Sulfur Dioxide.

### B. Docket

All documents in the docket are listed in the [www.regulations.gov](https://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in

[www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

## II. Background

### A. Requirements of the Clean Air Act and the EPA's Regional Haze Rule

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of 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 which impairment results from manmade air pollution."<sup>2</sup>

The EPA promulgated a rule to address regional haze on July 1, 1999.<sup>3</sup> The RHR revised the existing visibility regulations<sup>4</sup> to integrate provisions addressing regional haze and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 40 CFR 51.309, are included in the EPA's visibility protection regulations at 40 CFR 51.300 through 40 CFR 51.309. The EPA revised the RHR on January 10, 2017.<sup>5</sup>

The CAA requires each state to develop a SIP to meet various air quality

<sup>2</sup> 42 U.S.C. 7491(a). Areas 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. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, the EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas whose visibility they consider to be an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to "mandatory Class I Federal areas." Each mandatory Class I Federal area is the responsibility of a "Federal Land Manager." 42 U.S.C. 7602(i). When we use the term "Class I area" in this section, we mean a "mandatory Class I Federal area."

<sup>3</sup> 64 FR 35714, 35714 (July 1, 1999) (codified at 40 CFR part 51, subpart P).

<sup>4</sup> The EPA had previously promulgated regulations to address visibility impairment in Class I areas that is "reasonably attributable" to a single source or small group of sources, *i.e.*, reasonably attributable visibility impairment (RAVI). 45 FR 80084, 80084 (December 2, 1980).

<sup>5</sup> 82 FR 3078 (January 10, 2017).

<sup>1</sup> Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to "mandatory Class I Federal areas."

requirements, including protection of visibility.<sup>6</sup> Regional haze SIPs must assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A state must submit its SIP and SIP revisions to the EPA for approval. Once approved, a SIP is enforceable by the EPA and citizens under the CAA; that is, the SIP is federally enforceable. If a state elects not to make a required SIP submittal, fails to make a required SIP submittal or if we find that a state's required submittal is incomplete or not approvable, then we must promulgate a Federal Implementation Plan (FIP) to fill this regulatory gap.<sup>7</sup>

#### *B. Best Available Retrofit Technology (BART)*

Section 169A of the CAA directs states as part of their SIPs to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states' implementation plans to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate the "Best Available Retrofit Technology" as determined by the states through their SIPs. Under the RHR, states (or the EPA) are directed to conduct BART determinations for such "BART-eligible" sources that may reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area.<sup>8</sup> Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART.<sup>9</sup>

#### *C. BART Alternatives*

An alternative program to BART must meet requirements under 40 CFR

51.308(e)(2) and (e)(3). These requirements for alternative programs relate to the "better-than-BART" test and fundamental elements of any alternative program.

In order to demonstrate that the alternative program achieves greater reasonable progress than source-specific BART, a state must demonstrate that its SIP meets the requirements in 40 CFR 51.308(e)(2)(i) through (v). The state or the EPA must conduct an analysis of the best system of continuous emission control technology available and the associated reductions for each source subject to BART covered by the alternative program, termed a "BART benchmark." Where the alternative program has been designed to meet requirements other than BART, simplifying assumptions may be used to establish a BART benchmark.

Pursuant to 40 CFR 51.308(e)(2)(i)(E), the state or the EPA, must also provide a determination that the alternative program achieves greater reasonable progress than BART under 40 CFR 51.308(e)(3) or otherwise based on the clear weight of evidence. 40 CFR 51.308(e)(3), in turn, provides specific tests applicable under specific circumstances for determining whether the alternative achieves greater reasonable progress than BART. If the distribution of emissions for the alternative program is not substantially different than for BART, and the alternative program results in greater emissions reductions, then the alternative program may be deemed to achieve greater reasonable progress. If the distribution of emissions is significantly different, the differences in visibility between BART and the alternative program, must be determined by conducting dispersion modeling for each impacted Class I area for the best and worst 20 percent of days. This modeling demonstrates "greater reasonable progress" if both of the two following criteria are met: (1) Visibility does not decline in any Class I area; and (2) there is overall improvement in visibility when comparing the average differences between BART and the alternative program across all the affected Class I areas. Alternatively, pursuant to 40 CFR 51.308(e)(2), states may show that the alternative achieves greater reasonable progress than the BART benchmark "based on the clear weight of evidence" determinations. Specific RHR requirements for alternative programs are discussed in more detail in Section III.<sup>10</sup>

Generally, a SIP addressing regional haze must include emission limits and compliance schedules for each source subject to BART. In addition to the RHR's requirements, general SIP requirements mandate that the SIP include all regulatory requirements related to monitoring, recordkeeping, and reporting for the alternative's enforceable requirements. See CAA section 110(a); 40 CFR part 51, subpart K.

#### *D. Reasonable Progress Requirements*

In addition to BART requirements, as mentioned previously, each regional haze SIP must contain measures as necessary to make reasonable progress towards the national visibility goal. Finally, the SIP must establish reasonable progress goals (RPGs) for each Class I area within the state for the plan implementation period (or "planning period"), based on the measures included in the long-term strategy.<sup>11</sup> If an RPG provides for a slower rate of improvement in visibility than the rate under which the national goal of no anthropogenic visibility impact would be attained by 2064, the SIP must demonstrate, based on the four reasonable progress factors, why that faster rate is not reasonable and the slower rate provided for by the SIP's state-specific RPG is reasonable.<sup>12</sup>

#### *E. Consultation With Federal Land Managers (FLMs)*

The RHR requires that a state consult with FLMs before adopting and submitting a required SIP or SIP revision.<sup>13</sup> Further, the EPA, or state when considering a SIP revision, must include in its proposal a description of how it addressed any comments provided by the FLMs.

#### *F. Requirements for Regional Haze SIPs Submitted Under 40 CFR 51.309*

The EPA's RHR provides two paths to address regional haze. One is 40 CFR 51.308, requiring states to perform individual point source BART determinations and evaluate the need for other control strategies. The other method for addressing regional haze is through 40 CFR 51.309, and is an option for nine states termed the "Transport Region States," which include: Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah and Wyoming. By meeting the requirements under 40 CFR 51.309, a Transport Region State can be deemed to be making reasonable progress toward the

<sup>6</sup> 42 U.S.C. 7410(a), 7491, and 7492(a); CAA sections 110(a), 169A, and 169B.

<sup>7</sup> 42 U.S.C. 7410(c)(1).

<sup>8</sup> 40 CFR 51.308(e). The EPA designed the Guidelines for BART Determinations Under the Regional Haze Rule (Guidelines) 40 CFR Appendix Y to part 51 "to help States and others (1) identify those sources that must comply with the BART requirement, and (2) determine the level of control technology that represents BART for each source." Guidelines, Section I.A. Section II of the Guidelines describes the four steps to identify BART sources, and Section III explains how to identify BART sources (*i.e.*, sources that are "subject to BART").

<sup>9</sup> 40 CFR 51.308(e)(2). *WildEarth Guardians v. EPA*, 770 F.3d 919 (10th Cir. 2014).

<sup>10</sup> 40 CFR 51.308(e)(2).

<sup>11</sup> 40 CFR 51.308(d).

<sup>12</sup> 40 CFR 51.308(d)(1)(ii).

<sup>13</sup> 40 CFR 51.308(i).

national goal of achieving natural visibility conditions for the 16 Class I areas on the Colorado Plateau.<sup>14</sup>

Section 309 requires those Transport Region States that choose to participate to adopt regional haze strategies that are based on recommendations from the Grand Canyon Visibility Transport Commission (GCVTC) for protecting the 16 Class I areas on the Colorado Plateau. The purpose of the GCVTC was to assess information about the adverse impacts on visibility in and around the 16 Class I areas on the Colorado Plateau and to provide policy recommendations to the EPA to address such impacts. The GCVTC determined that all Transport Region States could potentially impact the Class I areas on the Colorado Plateau. The GCVTC submitted a report to the EPA in 1996 for protecting visibility for the Class I areas on the Colorado Plateau, and the EPA codified these recommendations as an option available to states as part of the RHR.<sup>15</sup>

The EPA determined that the GCVTC strategies would provide for reasonable progress in mitigating regional haze if supplemented by an annex containing quantitative emission reduction milestones and provisions for a trading program or other alternative measure.<sup>16</sup> In September 2000, the Western Regional Air Partnership (WRAP), which is the successor organization to the GCVTC, submitted an annex to the EPA. The annex contained SO<sub>2</sub> emissions reduction milestones and detailed provisions of a backstop trading program to be implemented automatically if voluntary measures failed to achieve the SO<sub>2</sub> milestones. The EPA codified the annex on June 5, 2003 at 40 CFR 51.309(h).<sup>17</sup>

Five western states, including Wyoming, submitted implementation plans under section 309 in 2003.<sup>18</sup> The EPA was challenged by the Center for Energy and Economic Development (CEED) on the validity of the annex

provisions. In *CEED v. EPA*, the D.C. Circuit Court of Appeals vacated the EPA approval of the WRAP annex.<sup>19</sup> In response to the court's decision, the EPA vacated the annex requirements adopted under 40 CFR 51.309(h), but left in place the stationary source requirements in 40 CFR 51.309(d)(4).<sup>20</sup> The requirements under 40 CFR 51.309(d)(4) contain general requirements pertaining to stationary sources and market trading, and allow states to adopt alternatives to the point source application of BART.

Thus, rather than requiring source-specific BART controls as explained previously in Section II.B., states have the flexibility to adopt an emissions trading program or other alternative program if the alternative provides greater reasonable progress than would be achieved by the application of BART pursuant to 40 CFR 51.308(e)(2). Under 40 CFR 51.309, states can satisfy the SO<sub>2</sub> BART requirements by adopting SO<sub>2</sub> emissions milestones and a backstop trading program. Under this approach, states must establish declining SO<sub>2</sub> emissions milestones for each year of the program through 2018. The milestones must be consistent with the GCVTC's goal of 50 to 70 percent reduction in SO<sub>2</sub> emissions by 2040. The backstop trading program would be implemented if a milestone is exceeded and the program is triggered.<sup>21</sup>

#### G. History of NO<sub>x</sub> and PM BART Determinations for Naughton Unit 3

##### 1. PacifiCorp Naughton Unit 3

The PacifiCorp Naughton Power Plant, located in Lincoln County, Wyoming, is comprised of three pulverized coal-fired units with a total net generating capacity of 700 megawatts (MW). All three boilers are tangentially fired and burn subbituminous coal. Naughton Unit 3 generates a nominal 330 MW and commenced operation in 1971. Naughton Unit 3 is currently equipped with low-NO<sub>x</sub> burners (LNB) and overfire air (OFA) to control NO<sub>x</sub>, sodium-based wet flue gas desulfurization to control SO<sub>2</sub>, and an electrostatic precipitator and flue gas conditioning to control PM.<sup>22</sup> All three units are within the statutory definition of BART-eligible units, and were determined to be subject to BART by

Wyoming in its 2011 Regional Haze SIP (discussed below).

##### 2. 2011 Wyoming Regional Haze SIP

Wyoming submitted its SIP revision to the EPA on January 12, 2011, to address the requirements of section 309(g) of the RHR. On June 10, 2013, the EPA proposed to approve portions of the Wyoming Regional Haze SIP, including the State's NO<sub>x</sub> and PM BART determinations for Naughton Unit 3.<sup>23</sup> Specifically, we proposed to approve: (1) Wyoming's NO<sub>x</sub> BART emission limit of 0.07 lb/MMBtu (30-day rolling average), reflecting the existing LNBs plus OFA and the installation of selective catalytic reduction (SCR), and (2) Wyoming's PM BART emission limit of 0.015 lb/MMBtu, reflecting installation of a new full-scale fabric filter.<sup>24 25</sup> We also proposed to approve the associated compliance dates that required that PacifiCorp comply with the NO<sub>x</sub> and PM BART emission limits within 5 years from the effective date of our final rule (that is, by March 4, 2019).

During the public comment period for the EPA's proposed rule, PacifiCorp submitted comments indicating that, in place of installing SCR on Naughton Unit 3 to meet the NO<sub>x</sub> BART emission limit of 0.07 lb/MMBtu (30-day rolling average), it planned to convert the unit to natural gas firing by the end of 2018. On July 5, 2013, at the request of PacifiCorp, Wyoming issued air quality permit MD-14506<sup>26</sup> to modify the Naughton Power Plant by converting Unit 3 to fire natural gas. In a meeting with PacifiCorp held on October 31, 2013, the company clarified to the EPA that its comments were a request that the EPA establish emission limits reflecting conversion to natural gas through a FIP. In response to PacifiCorp's request, in our final rule the EPA indicated that while we tentatively supported PacifiCorp's planned conversion of Naughton Unit 3 to burn natural gas, we were unable to impose the associated emission limits

<sup>14</sup> The Colorado Plateau is a high, semi-arid tableland in southeast Utah, northern Arizona, northwest New Mexico, and western Colorado. The 16 mandatory Class I areas are: Grand Canyon National Park, Mount Baldy Wilderness, Petrified Forest National Park, Sycamore Canyon Wilderness, Black Canyon of the Gunnison National Park Wilderness, Flat Tops Wilderness, Maroon Bells Wilderness, Mesa Verde National Park, Weminuche Wilderness, West Elk Wilderness, San Pedro Park Wilderness, Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park and Zion National Park.

<sup>15</sup> 64 FR 35714, 35749 (July 1, 1999).

<sup>16</sup> 64 FR 35714, 35749, 35756 (July 1, 1999).

<sup>17</sup> 68 FR 33764, 33767 (June 5, 2003).

<sup>18</sup> Five states—Arizona, New Mexico, Oregon, Utah and Wyoming—and Albuquerque-Bernalillo County, New Mexico, initially exercised this option by submitting plans to the EPA in December 2003. Oregon elected to cease participation in 2006, and Arizona elected to cease participation in 2010.

<sup>19</sup> *Ctr. for Energy & Econ. Dev. v. EPA*, 398 F.3d 653, 654 (D.C. Cir. 2005).

<sup>20</sup> 71 FR 60612 (October 13, 2006).

<sup>21</sup> 40 CFR 51.309(d)(4)(v).

<sup>22</sup> PM includes both PM<sub>10</sub> and PM<sub>2.5</sub>. See *Definitions*.

<sup>23</sup> 78 FR 34738 (June 10, 2013); 78 FR 34760 (June 10, 2013).

<sup>24</sup> The BART requirement is met through compliance with the specified emission limit, and may be achieved through measures other than the referenced control technology.

<sup>25</sup> Wyoming's 2011 SIP also contained NO<sub>x</sub> emission limits of 259 lb/hr (30-day rolling average) and 1,134 tons/year, and PM emission limits of 56 lb/hr and 243 tons/year. These hourly and annual limits are the product of the respective lb/MMBtu emission limit and the design heat input for an hour or year. However, EPA's SIP approval only included the lb/MMBtu emission limits.

<sup>26</sup> The emission limits and other requirements associated with the BART alternative were superseded by subsequent permits.

through a FIP.<sup>27</sup> We found no basis to disapprove Wyoming's SIP requirement for Naughton Unit 3 and were therefore obligated to approve them. Accordingly, in a final rule dated January 30, 2014, the EPA approved Wyoming's NO<sub>x</sub> and PM emission limits for Naughton Unit 3 that reflected the installation of SCR and a new full-scale fabric filter baghouse.<sup>28</sup> At the time, we acknowledged that Wyoming intended to submit a revision to its regional haze SIP for Naughton Unit 3 that would reflect conversion to natural gas. We indicated that we would act on the SIP revision in an expedited timeframe.

Though we approved Wyoming's NO<sub>x</sub> and PM BART<sup>29</sup> emission limits for Naughton Unit 3, we disapproved the monitoring, record-keeping, and reporting requirements in the SIP for all BART sources, and promulgated federal requirements in their place for the reasons stated in our January 30, 2014 final rule and June 10, 2013 proposed rule.<sup>30</sup>

### 3. Wyoming Regional Haze SIP Revision for Naughton Unit 3

On November 28, 2017, Wyoming submitted a revision to the Wyoming Regional Haze SIP ("SIP revision") that provides an alternative to NO<sub>x</sub> and PM BART for Naughton Unit 3 ("Naughton Unit 3 BART Alternative"). This SIP revision is in Appendix B to Wyoming's 5-year progress report, titled *Alternative to BART for NO<sub>x</sub> and PM for PacifiCorp Naughton Unit 3*, and includes five air quality permits for the Naughton Power Plant.<sup>31</sup> The SIP revision is the subject of this proposal.

### III. The SIP Revision for Naughton Unit 3

#### A. Summary of the SIP Revision

The November 28, 2017 SIP revision requires that PacifiCorp cease firing coal at Naughton Unit 3 no later than January 30, 2019.<sup>32</sup> The SIP revision establishes NO<sub>x</sub> and PM emission limits that reflect firing natural gas, installation of new low-NO<sub>x</sub> gas burners along with a boiler flue gas recirculation system (FGR) for NO<sub>x</sub> control, and a limit on annual heat input of 12,964,800 MMBtu/year (based on 12-month rolling average of hourly

heat input values<sup>33</sup>) equal to 40 percent of the maximum design heat input when firing coal.<sup>34</sup> Collectively, these control measures will significantly reduce NO<sub>x</sub> and PM emissions. The SIP revision includes the associated compliance deadlines, monitoring, recordkeeping and reporting requirements. Finally, the SIP revision includes a determination that the Naughton Unit 3 BART alternative is "better than BART" based on a demonstration that it fulfills the requirements of 40 CFR 51.308(e)(2) for a BART alternative. More information regarding Wyoming's analysis of the BART alternative is set forth below, along with the EPA's evaluation of the analysis.

#### B. The EPA's Evaluation of the SIP Revision

The RHR establishes the requirements for BART alternatives. Three of the requirements are of relevance to our evaluation of the Naughton Unit 3 BART alternative. We evaluate the proposed alternative to the NO<sub>x</sub> and PM BART requirements in the SIP revision with respect to each of these following elements:

- A demonstration that the emissions trading program or other alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the state and covered by the alternative program.<sup>35</sup>

- A requirement that all necessary emissions reductions take place during the period of the first long-term strategy for regional haze.<sup>36</sup>

- A demonstration that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from the measures adopted to meet requirements of the CAA as of the baseline date of the SIP.<sup>37</sup>

Our evaluation draws from Appendix B of the SIP submittal: *Alternative to BART for NO<sub>x</sub> and PM for PacifiCorp Naughton Unit 3*.

#### 1. Demonstration That the Alternative Measure Will Achieve Greater Reasonable Progress

Pursuant to 40 CFR 51.308(e)(2)(i), a state must demonstrate that the

alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the state and covered by the alternative program. For a source-specific BART alternative, the critical elements of this demonstration are:

- A list of all BART-eligible sources within the state;
- A list of all BART-eligible sources and all BART source categories covered by the alternative program;
- An analysis of BART and associated emission reductions;
- An analysis of projected emissions reductions achievable through the BART alternative; and
- A determination that the alternative achieves greater reasonable progress than would be achieved through the installation and operation of BART.

We summarize the SIP revision with respect to each of these elements and provide our evaluation in the proceeding sections.

#### • A List of All BART-Eligible Sources Within the State

Table 1 shows a list of all BART-eligible sources in the State of Wyoming.

TABLE 1—WYOMING BART-ELIGIBLE SOURCES

Company	Facility
PacifiCorp .....	Jim Bridger.
Basin Electric .....	Laramie River.
PacifiCorp .....	Dave Johnston.
PacifiCorp .....	Naughton.
PacifiCorp .....	Wyodak.
FMC .....	Westvaco.
General Chemical .....	Green River.
Black Hills .....	Neil Simpson 1.
Sinclair .....	Sinclair Refinery.
Sinclair .....	Casper Refinery.
FMC .....	Granger.
Dyno Nobel .....	Dyno Nobel.
OCI Wyoming .....	OCI Wyoming.
P4 Production .....	P4 Production.

#### • A List of All BART-Eligible Sources and All BART Source Categories Covered by the BART Alternative Program

Table 2 shows a list of all the BART-eligible sources covered by the BART

for each month, and that these monthly values are then averaged on a rolling 12-month basis.

<sup>34</sup> The State's SIP explains that "... PacifiCorp will no longer operate the unit as a base-load Electric Generating Unit (EGU). Instead it will be operated as a peaking unit with a maximum annual heat input factor of 40%, or 12,964,800 MMBtu based on 12-month rolling average of hourly heat input values." SIP Appendix B at p. 3.

<sup>35</sup> 40 CFR 51.308(e)(2)(i).

<sup>36</sup> 40 CFR 51.308(e)(2)(iii).

<sup>37</sup> 40 CFR 51.308(e)(2)(iv).

<sup>27</sup> 79 FR 5045 (January 30, 2014).

<sup>28</sup> 79 FR 5220, 5221 (January 30, 2014).

<sup>29</sup> Separately, under 40 CFR 51.309, Wyoming submitted a SIP satisfying BART requirements for SO<sub>2</sub> by adopting SO<sub>2</sub> emission milestones and a backstop trading program. We finalized approval of Wyoming's 309 program for SO<sub>2</sub> on December 12, 2012. 77 FR 73926 (December 12, 2012).

<sup>30</sup> 79 FR 5221, 5222 (January 30, 2014).

<sup>31</sup> Appendix B to the SIP contains the State's better than BART demonstration (PDF pp. 184–193) and five air quality permits issued by the State of

Wyoming for the Naughton Power Plant. Permit Nos. P0021110 (March 7, 2017), PDF pp. 194–198; P0021918 (November 18, 2016), PDF pp. 199–200; MD–15946 (March 20, 2014), PDF pp. 201–205; MD–14506 (July 5, 2013), PDF pp. 206–215; and MD–6042A2 (March 7, 2012), PDF pp. 216–220.

<sup>32</sup> The coal pulverizers will be removed from service.

<sup>33</sup> The EPA understands the "12-month rolling average heat input of hourly heat input values" to mean that the hourly heat input values are summed

alternative program along with the BART source category.

TABLE 2—WYOMING SUBJECT-TO-BART SOURCES COVERED BY THE ALTERNATIVE

Company	Facility	Subject-to-BART units	Source category
PacifiCorp .....	Naughton Power Plant .....	Unit 3 .....	Electrical generating units.

• Analysis of BART and Associated Emission Reductions

Pursuant to 40 CFR 51.308(e)(2)(i)(C), the SIP must include an analysis of BART and associated emission reductions at Naughton Unit 3. As noted above, Wyoming's BART analyses and determinations for Naughton Unit 3 were included in the 2011 Wyoming Regional Haze SIP. The EPA approved

Wyoming's NO<sub>x</sub> BART emission limit of 0.07 lb/MMBtu (30-day rolling average) for Naughton Unit 3 that reflected existing LNBs plus OFA with the installation of SCR.<sup>38</sup> In addition to the NO<sub>x</sub> BART emission limit of 0.07 lb/MMBtu approved by the EPA, the 2011 SIP included NO<sub>x</sub> emission limits of 259 lb/hr (30-day rolling average) and 1,134 tons/year. We also approved

Wyoming's PM BART emission limit of 0.015 lb/MMBtu that reflected installation of a new full-scale fabric filter.<sup>39</sup> In addition to the PM BART emission limit of 0.015 lb/MMBtu approved by the EPA, the 2011 SIP included PM emission limits of 56 lb/hr and 243 tons/year. These BART determinations are shown in the SIP revision, and are summarized in Table 3 below.

TABLE 3—SUMMARY OF WYOMING'S NO<sub>x</sub> AND PM BART DETERMINATIONS FOR NAUGHTON UNIT 3

Permitted controls	NO <sub>x</sub>	PM
SCR, New Fabric Filter Baghouse .....	0.07 lb/MMBtu (30-day rolling) ..... 259 lb/hr (30-day rolling) ..... 1,134 tons/yr .....	0.015 lb/MMBtu. 56 lb/hr. 243 tons/yr.

We propose to find that Wyoming has met the requirement for an analysis of BART and associated emission reductions achievable at Naughton Unit 3 under 40 CFR 51.308(e)(2)(i)(C). Note that the emission reductions associated with BART, when expressed in tons reduced per year, are shown in the section that follows.

• Analysis of Projected Emissions Reductions Achievable Through the BART Alternative

Pursuant to 40 CFR 51.308(e)(2)(i)(D), the SIP must include an analysis of projected emissions reductions achievable through the BART alternative. The BART alternative achieves emission reductions through the following control measures: conversion of the unit to natural gas

firing, installation of new low-NO<sub>x</sub> gas burners and FGR for NO<sub>x</sub> control, and a limit on annual heat input equal to 40 percent of the maximum design heat input (when burning coal), or 12,964,800 MMBtu/year. The SIP revision includes an analysis of the projection emissions and emissions reductions associated with these alternative control measures as reproduced in Tables 4 and 5 below.

TABLE 4—NAUGHTON UNIT 3 EMISSION LIMITS WHEN CONVERTED TO NATURAL GAS

Permitted controls	NO <sub>x</sub>	PM
New LNB, FGR .....	0.12 lb/MMBtu (30-day rolling) ..... 250 lb/hr (30-day rolling) ..... 519 tons/yr .....	0.008 lb/MMBtu. 30 lb/hr. 52 tons/yr.

TABLE 5—NAUGHTON UNIT 3 EMISSION COMPARISON WHEN CONVERTED TO NATURAL GAS

Fuel	Permitted controls	NO <sub>x</sub>			PM		
		lb/MMBtu	lb/hr	tons/yr	lb/MMBtu	lb/hr	tons/yr
Coal .....	SCR, Fabric Filter New LNB, FGR, heat input limit.	0.07	259	1,134	0.015	56	243
Natural Gas .....		0.12	250	519	0.008	30	52
Additional Reduction.	.....	.....	9	615	0.007	26	191

Here we note that Wyoming calculated the annual emission reductions achievable through BART

based on a potential-to-emit (*i.e.*, allowable) emissions basis. For example, Wyoming calculated the

annual emissions for NO<sub>x</sub> under the BART scenario by multiplying the unit's maximum hourly heat input when

<sup>38</sup> 79 FR 5045 (January 30, 2014).

<sup>39</sup> *Ibid.*

combusting coal of 3,700 MMBtu/hr by the emission limit of 0.07 lb/MMBtu (30-day rolling average). Wyoming then converted the resulting value of 259 lb/hr to a tons/yr basis ( $3700 \text{ MMBtu/hr} \times 0.07 \text{ lb/MMBtu} \times 8760 \text{ hr/yr} \times 1 \text{ ton}/2000 \text{ lb} = 1,134 \text{ tons/yr}$ ). Wyoming's calculation for BART assumes that the unit would be operated at the maximum design heat input of 3,700 MMBtu/hr for the entire year (8,760 hours), yielding an annual heat input of 32,412,000 MMBtu. We disagree with the calculation methodology Wyoming used to calculate the annual emission reductions achievable with BART because they were based on a potential-to-emit basis. By contrast, in our analysis of NO<sub>x</sub> BART associated with the 2011 SIP, consistent with the BART Guidelines,<sup>40</sup> we calculated the projected emissions with SCR based on past actual practice rather than the potential-to-emit. Our calculations reflected the actual operation of Naughton Unit 3 during the baseline period of 2001–2003 during which the heat input of the unit was 24,856,366 MMBtu.<sup>41</sup> In addition, as opposed to using the 30-day rolling average emission limit of 0.07 lb/MMBtu, the EPA used the anticipated annual emission rate with SCR of 0.05 lb/MMBtu.<sup>42</sup> Since that time, the 0.05 lb/MMBtu annual emission rate has been demonstrated at other PacifiCorp EGUs in Wyoming that have been retrofitted with SCR and that burn similar coal to Naughton Unit 3.<sup>43</sup> The result is that the EPA calculated that the projected actual annual NO<sub>x</sub> emissions with SCR would be 621 tons/year<sup>44</sup> (as opposed to 1,134 tons/year calculated by Wyoming). Because the value of 621 tons/year was calculated consistent with the procedures outlined in the BART Guidelines, and reflects the projected actual emissions that would have been achieved with SCR, it sets the appropriate benchmark for making the better-than-BART comparison. To ensure an apples-to-apples comparison, it is also appropriate to calculate the projected annual emissions anticipated

with the BART alternative in a commensurate manner to that for BART (*i.e.*, based on projected actual rather than allowable emissions). Nonetheless, even if annual emissions for the BART alternative are calculated based on an allowable emissions basis as Wyoming has done, the allowed annual emissions for the BART alternative of 519 tons/year is lower than the EPA's estimate for BART (SCR) of 621 tons/year. Therefore, regardless of whether the emission reductions achievable with the BART alternative are assessed on a projected actual or allowable emissions basis, the anticipated NO<sub>x</sub> emissions are lower under the BART alternative than they are under BART. The same conclusion holds true for PM. Therefore, while we disagree with the State's potential-to-emit (allowable) methodology, we propose to agree with the State's conclusion that the emissions reductions achievable through the alternative measure are better-than-BART. 40 CFR 51.308(e)(2)(i)(D).

• **Determination That the Alternative Achieves Greater Reasonable Progress Than Would Be Achieved Through the Installation and Operation of BART**

Pursuant to 40 CFR 51.308(e)(2)(i)(E), the SIP revision must provide a determination under 40 CFR 51.308(e)(3) or otherwise based on the clear weight of evidence that the alternative achieves greater reasonable progress than BART. Two different tests for determining whether the alternative achieves greater reasonable progress than BART are outlined in 40 CFR 51.308(e)(3). Under the first test, if the distribution of emissions is not substantially different than under BART, and the alternative measure results in greater emission reductions, then the alternative measure may be deemed to achieve greater reasonable progress. Under the second test, if the distribution of emissions is significantly different, then dispersion modeling must be conducted to determine differences between BART and the BART alternative for each impacted Class I area for the worst and best 20 percent days. The modeling would demonstrate "greater reasonable progress" if both of the following criteria are met: (1) Visibility does not decline in any Class I area; and (2) there is an overall improvement in visibility, determined by comparing the average differences between BART and the alternative over all affected Class I areas. This modeling test is sometimes referred to as the "two-prong test."

As stated in the SIP revision, the emissions reductions under PacifiCorp's BART alternative will occur at the same

unit, and therefore the distribution of emissions under BART and the better-than-BART alternative are not substantially different. Accordingly, if the BART alternative results in greater emission reductions, then it may be deemed to achieve greater reasonable progress. The SIP revision includes an analysis of the emission reductions achievable with the BART alternative as compared to BART which indicates that the BART alternative achieves greater emission reductions. As indicated in section E. above, the BART alternative will achieve additional NO<sub>x</sub> reductions and additional PM reductions that are greater than achieved by BART.<sup>45</sup> Therefore, we propose to find that Wyoming's conclusion that the BART alternative achieves greater reasonable progress than would be achieved through the installation and operation of BART is appropriate. 40 CFR 51.308(e)(2)(i)(E).

**2. A Requirement That All Necessary Emissions Reductions Take Place During the Period of the First Long-Term Strategy for Regional Haze**

Pursuant to 40 CFR 51.308(e)(2)(iii), all necessary emission reductions must take place during the period of the first long-term strategy for regional haze. The RHR further provides that, to meet this requirement, a detailed description of the alternative measure, including schedules for implementation, the emission reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.

The SIP revision requires PacifiCorp to cease firing coal at Naughton Unit 3 no later than January 30, 2019.<sup>46</sup> Because no emissions will occur between the date that PacifiCorp must cease firing coal, and when the unit is converted to fire natural gas, the SIP revision achieves emission reductions before the original BART compliance date of March 4, 2019. As a result, we do not find that it is appropriate to disapprove this aspect of the BART alternative.

In addition, Wyoming has included the relevant implementation schedules, monitoring, reporting and record keeping requirements in the SIP revision as presented in section VI of this action. Accordingly, we propose to

<sup>45</sup> These values are based on a comparison of allowable emissions. See discussion regarding allowable versus actual emissions in preceding section.

<sup>46</sup> Appendix B, p. 2 (PDF p. 187). The associated emission and operational limits apply upon conversion of Naughton Unit 3 to fire natural gas.

<sup>40</sup> In general, for the existing sources subject to BART, you will estimate the anticipated annual emissions based upon *actual emissions* from a baseline period. 70 FR 39167 (July 5, 2005, emphasis added).

<sup>41</sup> Heat input data was obtained from the EPA Air Markets Program Data.

<sup>42</sup> 79 FR 5043, Table 14 (January 30, 2014); 79 FR 5167 (January 30, 2014).

<sup>43</sup> Refer to the EPA Air Markets Program Data for Jim Bridger Power Plant Units 3 and 4 where SCR was installed in 2015 and 2016, respectively.

<sup>44</sup> Andover Technology Partners, "Cost of NO<sub>x</sub> Controls on Wyoming EGUs", October 28, 2013; "Wyoming EGU BART and Reasonable Progress Cost," 10/28/2013. Docket ID EPA-R08-OAR-2012-0026-0241.



find that the BART alternative meets the requirements of 40 CFR 51.308(e)(2)(iii).

### 3. Demonstration That Emissions Reductions From the Alternative Measure Will Be Surplus

Pursuant to 40 CFR 51.308(e)(2)(iv), the SIP must demonstrate that the emissions reductions resulting from the BART alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP. The baseline date for regional haze SIPs is 2002. All the NO<sub>x</sub> and PM emission reductions required by the BART alternative will occur in the future and are surplus to reductions resulting from SIP measures applicable to Naughton Unit 3 as of 2002. Therefore, we propose to find that the BART alternative complies with 40 CFR 51.308(e)(2)(iv).

In sum, we propose to find that the BART alternative meets all the applicable requirements of 40 CFR 51.308(e)(2).

### IV. Clean Air Act Section 110(I)

Under CAA section 110(I), the EPA cannot approve a plan revision “if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.”<sup>47</sup> The previous sections of the action explain how the SIP revision will comply with applicable regional haze requirements and general implementation plan requirements such as enforceability. With respect to requirements concerning attainment and reasonable further progress, the Wyoming Regional Haze SIP, as revised by this action, will result in a significant reduction in emissions compared to current levels. Moreover, the SIP revision will result in decreased future NO<sub>x</sub> and PM emissions as compared to the prior SIP, and will therefore achieve greater reasonable progress than the prior SIP. In addition, the area where the Naughton Unit 3 is located has not been designated nonattainment for any National Ambient Air Quality Standards

(NAAQS). Thus, the revisions will ensure a significant reduction in NO<sub>x</sub> and PM emissions compared to current levels in an area that has not been designated nonattainment for the relevant NAAQS at those current levels. Accordingly, we propose to find that these revisions satisfy section 110(I).

### V. Consultation With FLMs

There are seven Class I areas in the State of Wyoming. The United States Forest Service (USFS) manages the Bridger Wilderness, Fitzpatrick Wilderness, North Absaroka Wilderness, Teton Wilderness and Washakie Wilderness. The National Park Service (NPS) manages the Grand Teton National Park and Yellowstone National Park. The RHR grants the FLMs a special role in the review of regional haze implementation plans, summarized in section II.E of this preamble.

Under 40 CFR 51.308(i)(2), Wyoming was obligated to provide the USFS and the NPS with an opportunity for consultation in development of the State’s proposed SIP revision no less than 60 days prior to the associated public hearing or public comment opportunity. The SIP revision does not describe whether this consultation occurred. Nonetheless, Wyoming made the SIP revision for Naughton Unit 3 available to the public on June 5, 2017. The State’s SIP submittal does not include any comments from the FLMs on its SIP revision for Naughton Unit 3 during the public comment period. Additionally, the FLMs will have an opportunity to comment during the public comment period for this action. We propose to find that while Wyoming did not state in its proposed SIP revision that it fully met its obligation to provide the FLMs with an opportunity for consultation in development of the SIP revision, the FLMs will have nevertheless been provided with two opportunities to comment.

### VI. The EPA’s Proposed Action

In this action, the EPA is proposing to approve Wyoming’s SIP revision for the Alternative to BART for NO<sub>x</sub> and PM for PacifiCorp Naughton Unit 3, including the associated emission and operational limitations, compliance dates, and monitoring, record keeping, and reporting requirements. Specifically, the EPA is proposing to approve the following federally enforceable elements of the SIP revision for Naughton Unit 3:

- The NO<sub>x</sub> and PM emission limits found in Wyoming air quality permits MD–15946 (condition 5, lb/hr and tons/

year) and P0021110 (condition 7, lb/MMBtu).

- The operational limit on annual heat input of 12,964,800 MMBtu (based on 12-month rolling average of hourly heat input values) found in Wyoming air quality permit P0021110 (condition 18).

- The compliance dates found in Wyoming air quality permit P0021110; specifically including that PacifiCorp shall (1) remove the coal pulverizers from service (cease firing coal) by January 30, 2019 (P0021110, condition 19), (2) comply with the NO<sub>x</sub> and PM emission limits in lb/MMBtu upon conversion to natural gas firing (P0021110, condition 7), and (3) comply with the heat input limit by January 30, 2019 (P0021110, condition 18).

- The compliance dates found in Wyoming air quality permit MD–15946 (conditions 5 and 6), requiring that PacifiCorp comply with the NO<sub>x</sub> and PM emission limits in lb/hr and tons/year upon completion of the initial performance tests.

- The monitoring, record keeping, and reporting requirements found in air quality permit P0021110 (NO<sub>x</sub> CEMs, conditions 8 and 9; heat input, condition 18; PM stack testing, condition 10; reporting, conditions 4, 11, 12, 13, 14, 19; record keeping, condition 17; notification, conditions 4 and 6; good practice, condition 21; credible evidence, condition 24).

### VII. Incorporation by Reference

In this rule, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SIP amendments described in section VI. of this preamble. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

### VIII. 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

<sup>47</sup> Note that “reasonable further progress” as used in CAA section 110(I) is a reference to that term as defined in section 301(a) (*i.e.*, 42 U.S.C. 7501(a)), and as such means reductions required to attain the National Ambient Air Quality Standards (NAAQS) set for criteria pollutants under section 109. This term as used in section 110(I) (and defined in section 301(a)) is *not* synonymous with “reasonable progress” as that term is used in the regional haze program. Instead, section 110(I) provides that the EPA cannot approve plan revisions that interfere with regional haze requirements (including reasonable progress requirements) insofar as they are “other applicable requirement[s]” of the CAA.



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 an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- 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; 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 proposed 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).

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

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: November 2, 2018.

**Douglas Benevento,**

*Regional Administrator, EPA Region 8.*

40 CFR part 52 is proposed to be 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 ZZ—Wyoming

- 2. Section 52.2620 is amended by adding in paragraph (d), the entry “Naughton Unit 3” at the end of the table; and by adding in paragraph (e), in numerical order, the entry “(32) XXXII” to read as follows:

#### § 52.2620 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

Regulation	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
Naughton Unit 3 ..	Air Quality SIP Permits containing BART Alternative requirements, MD–15946 and P0021110.	November 28, 2017.	December 7, 2018.	[ <b>Federal Register</b> citation] November 7, 2018.	Only the following permit provisions: NO <sub>x</sub> and PM emission limits (P0021110, condition 7; MD–15946, condition 5); emission limit compliance dates (P0021110, condition 7; MD–15946, conditions 5 and 6); heat input limit and compliance date (P0021110, condition 18); compliance date for coal pulverizers to be removed from service (P0021110, condition 19); and associated monitoring, record-keeping, and reporting requirements (P0021110, conditions 4, 6, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 21, and 24).

(e) \* \* \*

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation date	Comments
(32) XXXII .....	Wyoming State Implementation Plan 5-Year Progress Report for Regional Haze, Appendix B: Alternative to BART for NO <sub>x</sub> and PM for PacifiCorp Naughton Unit 3.	November 28, 2017.	December 7, 2018.	[ <b>Federal Register</b> citation], November 7, 2018.	Only includes Appendix B: Alternative to BART for NO <sub>x</sub> and PM for PacifiCorp Naughton Unit 3.

■ 3. Section 52.2636 is amended by revising paragraph (a)(1)(vii) and amending paragraph(c)(1) by revising Table 1 to § 52.2636 to read as follows:

**§ 52.2636 Implementation plan for regional haze.**

- (a) \* \* \*  
(1) \* \* \*

(vii) PacifiCorp Naughton Power Plant Units 1 and 2 (PM and NO<sub>x</sub>); and

- \* \* \* \* \*  
(c) \* \* \*  
(1) \* \* \*

**TABLE 1 TO § 52.2636**

[Emission limits for BART units for which EPA approved the State's BART and Reasonable Progress determinations]

Source name/BART unit	PM emission limits—lb/MMBtu	NO <sub>x</sub> emission limits—lb/MMBtu (30-day rolling average)
FMC Westvaco Trona Plant/Unit NS-1A .....	0.05	0.35
FMC Westvaco Trona Plant/Unit NS-1B .....	0.05	0.35
TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler C .....	0.09	0.28
TATA Chemicals Partners (General Chemical) Green River Trona Plant/Boiler D .....	0.09	0.28
Basin Electric Power Cooperative Laramie River Station/Unit 1 .....	0.03	N/A
Basin Electric Power Cooperative Laramie River Station/Unit 2 .....	0.03	N/A
Basin Electric Power Cooperative Laramie River Station/Unit 3 .....	0.03	N/A
PacifiCorp Dave Johnston Power Plant/Unit 3 .....	0.015	N/A
PacifiCorp Dave Johnston Power Plant/Unit 4 .....	0.015	0.15
PacifiCorp Jim Bridger Power Plant/Unit 1 <sup>1</sup> .....	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 2 <sup>1</sup> .....	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 3 <sup>1</sup> .....	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 4 <sup>1</sup> .....	0.03	0.26/0.07
PacifiCorp Naughton Power Plant/Unit 1 .....	0.04	0.26
PacifiCorp Naughton Power Plant/Unit 2 .....	0.04	0.26
PacifiCorp Wyodak Power Plant/Unit 1 .....	0.015	N/A

<sup>1</sup> The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3, and 4 shall comply with the NO<sub>x</sub> emission limit for BART of 0.26 lb/MMBtu and PM emission limit for BART of 0.03 lb/MMBtu and other requirements of this section by March 4, 2019. The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3 and 4 shall comply with the NO<sub>x</sub> emission limit for reasonable progress of 0.07 lb/MMBtu by: December 31, 2022, for Unit 1, December 31, 2021, for Unit 2, December 31, 2015, for Unit 3, and December 31, 2016, for Unit 4.

\* \* \* \* \*  
[FR Doc. 2018-24372 Filed 11-6-18; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 170831847-8853-01]

RIN 0648-BG91

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Industry-Funded Monitoring**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** This action proposes regulations to implement the New England Fishery Management Council's Industry-Funded Monitoring Omnibus Amendment. The New England Council is considering ways to increase monitoring in certain fisheries to assess the amount and type of catch and reduce uncertainty around catch estimates. This amendment would implement a process to standardize future industry-funded monitoring programs in New England Council fishery management plans and industry-funded monitoring in the Atlantic herring fishery. This action would ensure consistency in industry-funded monitoring programs across fisheries

and increase monitoring in the Atlantic herring fishery.

**DATES:** Public comments must be received by December 24, 2018.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2018-0109, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0109](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0109);

2. Click the "Comment Now!" icon and complete the required fields; and

3. Enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on