6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2014-0647; FRL-9923-88-Region 9]

Approval and Promulgation of Air Quality Implementation Plans; Arizona; Regional Haze State and Federal Implementation Plans; Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a source-specific revision to the Arizona State Implementation Plan (SIP) that establishes an alternative to best available retrofit technology (BART) for Steam Units 2 and 3 (ST2 and ST3) at Arizona Electric Power Cooperative's (AEPCO) Apache Generating Station (Apache). Under the BART Alternative, ST2 will be converted from a primarily coal-fired unit to a unit that combusts pipeline-quality natural gas, while ST3 will remain as a coal-fired unit and would be retrofitted with selective non-catalytic reduction (SNCR) control technology. The SIP revision also revises the emission limit for nitrogen oxides (NO_X) applicable to Apache Steam Unit 1 (ST1), when it is operated in combined-cycle mode with Gas Turbine 1 (GT1). EPA has determined that the BART Alternative for ST2 and ST3 would provide greater reasonable progress toward natural visibility conditions than BART, in accordance with the requirements of the Clean Air Act

(CAA) and EPA's Regional Haze Rule (RHR). Accordingly, we are approving all elements of the SIP revision, with the exception of a provision pertaining to affirmative defenses for malfunctions. In conjunction with this final approval, we are withdrawing those portions of the Arizona Federal Implementation Plan (FIP) that address BART for Apache.

DATES: *Effective date:* This rule is effective [**INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: EPA has established docket number EPA–R09–OAR–2014–0647 for this action. Generally, documents in the docket are available electronically at *http://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 *http://www.regulations.gov*, some information may not be specifically listed in the index to the docket and 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 locations (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Thomas Webb, U.S. EPA, Region 9, Planning Office, Air Division, Air-2, 75 Hawthorne Street, San Francisco, CA 94105. Thomas Webb may be reached at telephone number (415) 947-4139 and via electronic mail at webb.thomas@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

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

- The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.
- The initials *AEPCO* mean or refer to Arizona Electric Power Cooperative.
- The words *Arizona* and *State* mean the State of Arizona.
- The initials *BART* mean or refer to Best Available Retrofit Technology.
- The initials *CEMS* mean or refer to a continuous emissions monitoring system.
- The term *Class I area* refers to a mandatory Class I Federal area.
- The words *EPA, we, us,* or *our* mean or refer to the United States Environmental Protection Agency.
- The initials *FIP* mean or refer to Federal Implementation Plan.
- The initials *GT1* mean or refer to Gas Turbine Unit 1.
- The initials *IWAQM* mean or refer to Interagency Workgroup on Air Quality Modeling.
- The initials *LNB* mean or refer to low-NO_X burners.
- The initials *MMBtu* mean or refer to million British thermal units
- The initials NO_X mean or refer to nitrogen oxides.
- The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers.
- The initials *RHR* mean or refer to EPA's Regional Haze Rule.
- The initials *SNCR* mean or refer to Selective Non-Catalytic Reduction.
- The initials *SIP* mean or refer to State Implementation Plan.
- The initials SO_2 mean or refer to sulfur dioxide.
- The initials *ST1* mean or refer to Steam Unit 1.
- The initials *ST2* mean or refer to Steam Unit 2.

- The initials *ST3* mean or refer to Steam Unit 3.

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I. Proposed Action

On September 19, 2014, EPA proposed to approve a revision to the Arizona Regional Haze SIP concerning Apache Generating Station ("Apache SIP Revision").[1] As described in the proposal, the Apache SIP Revision consists of two components: a BART alternative for ST2 and ST3 ("Apache BART Alternative") and a revised NO_X emission limit for ST1 and GT1 when operated in combined-cycle mode. The Apache BART Alternative was submitted pursuant to provisions of the RHR that allow states to adopt alternative measures in lieu of source-specific BART controls, if they can demonstrate that the alternative measures provide greater reasonable progress towards natural visibility conditions than BART.[2] Under the Apache BART Alternative, ST2 would be converted from a primarily coal-fired unit to a unit that combusts pipeline-quality natural gas, while ST3 would remain as a coal-fired unit and would be retrofitted with SNCR. Emission limits to implement the Apache BART Alternative and the revised limit for ST1 and GT1, as well as associated compliance deadlines and monitoring, recordkeeping, and reporting requirements, are incorporated into an addendum to Apache's Operating Permit, which was

[1] 79 FR 56322. Please refer to that notice of proposed rulemaking for background information concerning the CAA, the RHR and the Arizona Regional Haze SIP and FIP.
[2] 40 CFR 51.308(e)(2).

submitted as part of the Apache SIP Revision.[3] We proposed to approve each of these components because we proposed to determine that they complied with the relevant requirements of the CAA and EPA's implementing regulations. In particular, we proposed to find that the Apache BART Alternative would provide greater reasonable progress towards natural visibility conditions than BART.[4] We also proposed to withdraw the provisions of the Arizona Regional Haze FIP that apply to Apache and to find that withdrawal of the FIP would constitute our action on AEPCO's Petition for Reconsideration of the FIP.

II. Public Comments and EPA Responses

EPA's proposed action provided a 45-day public comment period. During this period, we received a comment letter from Earthjustice on behalf of National Parks Conservation Association and Sierra Club (collectively, the "Conservation Organizations"). The comments and our responses are summarized below.

Comment: The Conservation Organizations asserted that the Apache BART Alternative fails the first prong of the test set forth at 40 CFR 51.308(e)(3) because it would result in greater total emissions than EPA's BART FIP. They also noted that there appeared to be confusion over whether the "distribution of emissions" under the Apache BART Alternative and EPA's BART FIP are different. In addition, they urged EPA to clarify that "even if a BART alternative applies to the same facility as the underlying BART determination, the distribution of emissions is not the same if NO_X, SO_2, PM, and other visibility-impairing pollutants will be emitted in different amounts or different proportions."

[3] Apache SIP Revision, Appendix B, Significant Revision No. 59195 to Air Quality Control Permit No. 55412 ("Apache Permit Revision"), issued May 13, 2014.

[4] For purposes of our evaluation, we considered BART for ST2 and ST3 to consist of a combination of (1) ADEQ's BART determinations for particulate matter with an aerodynamic diameter of less than 10 micrometers (PM_{10}) and sulfur dioxide (SO_2), which were approved into the applicable SIP, and (2) EPA's BART determination for NOx in the Arizona RH FIP. *See* 79 FR 56326.

Response: We agree that, compared with BART, the Apache BART Alternative is expected to result in greater total emissions than EPA's BART FIP. In particular, the Alternative would result in greater NO_X emissions, but lower emissions of SO_2 and PM_{10}. In this situation, where BART and the BART Alternative result in reduced emissions of one pollutant but increased emissions of another, it is not appropriate to use the "greater emissions reductions" test under 40 CFR 51.308(e)(3). As explained below, Arizona chose not to apply the "greater emission reductions" test, but instead to employ a clear weight-of-evidence approach under 40 CFR 51.308(e)(2) in order to demonstrate that the alternative achieves greater reasonable progress than BART.

Comment: The Conservation Organizations asserted that the modeling underlying the Apache BART Alternative does not accurately reflect emissions under the Apache BART Alternative or BART. In particular, the commenters noted that the modeling results provided in EPA's proposal were based on AEPCO's petition for reconsideration from May 2013, but the emissions projections summarized in EPA's proposal differed from those in AEPCO's petition. Therefore, the Conservation Organizations asserted that the modeling EPA used to support its approval of the Apache BART Alternative does not accurately reflect visibility benefits of the alternative compared to BART.

Response: We agree with the commenter that the total annual emission projections summarized in Table 5 of our proposal differ from those reflected in AEPCO's May 2013 petition for reconsideration. However we do not agree that this difference affects the visibility modeling underlying the Apache BART Alternative because the modeling is based on projected maximum short-term (24-hour) emission rates, whereas the differences in annual emission projections are due to different assumptions concerning long-term heat rates and capacity factors. In particular, we note that the emission reduction projections included in AEPCO's May 2013

petition for reconsideration and shown in Table 1.6 of the SIP are based on maximum heat rates and conservative annual capacity factors and therefore represent conservative (high-end) emissions projections.[5] By contrast, the emission reductions shown in Table 5 of our proposal and Table 6 of the SIP Technical Support Document are calculated based on 2008-2010 continuous emissions monitoring system (CEMS) heat rates and annual average days of operation. Accordingly, they reflect lower annual emission projections, both for BART and the BART Alternative.

These differing assumptions concerning annual heat rates and capacity factors do not influence the visibility modeling, which is based on maximum 24-hour average emission rates.[6] In calculating the emission rates for modeling, AEPCO followed the approach set forth in the BART Guidelines, which provide that post-control 24-hour emission rates should be calculated as a percentage of pre-control 24-hour emission rates.[7] We find ADEQ's approach to calculating modeled emission rates is consistent with BART Guidelines and provides a sound technical basis to compare the expected visibility improvement from the BART Alternative to the expected improvement from BART.

Comment: The Conservation Organizations commented that the modeling underlying the Apache BART Alternative reflects an emission rate for Unit 2 (0.225 lbs/MMBtu) that is lower than the permitted emission limit for the unit (0.23 lbs/MMBtu) and therefore overestimates the Apache BART Alternative's visibility benefits relative to BART.

[5] *See* AEPCO Supplemental Petition for Reconsideration at 4–5 and Apache SIP Revision, Table 1.6 at 11.
[6] See, e.g. BART Guidelines, 40 CFR part 51, appendix Y, section IV.D.5. ("Use the 24-hour average actual emission rate from the highest emitting day of the meteorological period modeled (for the pre-control scenario). . .").
[7] *Id.*

Response: AEPCO's petition for reconsideration included modeling for several different control scenarios.[8] In the Apache SIP Revision, ADEQ focused on control scenario 9bv2 PNGt, which included a NO_X emission rate of 0.225 lb/MMBtu for ST3, reflecting use of SNCR. As noted by the commenter, this 0.225 lb/MMBtu emission rate is lower than the permitted NO_X emission limit for ST3[9] of 0.23 lb/MMBtu. However, contrary to the commenter's assertion this difference does not result in an overestimation of the visibility benefits of the Apache BART Alternative. Rather, the difference reflects the fact that, under the BART Guidelines, emission rates for BART modeling are calculated in a different manner than BART emission limits.[10] In particular, the BART Guidelines recommend that modeling be performed using an average 24-hour emission rate,[11] excluding periods of startup and shutdown.[12] By contrast, emission limits for EGUs are established based on 30-day rolling averages and must be met on a continuous basis, including during periods of startup, shutdown, and malfunction.[13]

In this case, the SNCR system on ST3 will not be capable of operating during portions of startup and shutdown periods.[14] Therefore, the emission rate for startup and shutdown periods will be higher than 0.225 lb/MMBtu, the value that corresponds entirely to SNCR operation. Over a period of 30 days, the emissions from these periods of time could cause the 30-day

[8] Letter from Eric Hiser, Jorden, Bischoff and Hiser, to Robert Perciasepe and Jared Blumenfeld, EPA (AEPCO Supplemental Petition for Reconsideration) (May 29, 2013); Attachment, Memorandum from Ralph Morris and Lynsey Parker, Environ, to Michelle Freeark, AEPCO (May 10, 2013), Tables 1 and 2.
[9] The comment referred to "Unit 2." However, this appears to be a typographical error, as 0.23 lb/MMBtu is the permitted emission limit for ST3, not ST2.
[10] Use of the BART Guidelines is required only for BART determinations at fossil-fuel fired generating stations with a capacity greater than 750 MW. See 40 CFR 51.308(e)(1)(ii)(B). The Apache Generating Station has a total capacity less than 750 MW. However, because the BART Guidelines are a useful resource for performing BART determinations, both ADEQ and EPA have adhered to the requirements of the BART Guidelines in evaluating this better-than-BART alternative.
[11] See 40 CFR part 51, appendix Y, section IV.D.5 ("Use the 24-hour average actual emission rate from the highest emitting day of the meteorological period modeled (for the pre-control scenario).
[12] Id. section III.A.3 (recommending that "emissions reflecting periods of start-up, shutdown, and malfunction" not be used for modeling).
[13] See CAA section 302(k).
[14] The SNCR system requires the boiler exhaust gas to be above a certain minimum temperature in order to properly function. During portions of the startup period, the exhaust gas will be below this temperature while the boiler heats up, precluding operation of SNCR controls during these portions of the startup period.

average emission rate to exceed 0.225 lb/MMBtu. Accordingly, ADEQ set a 30-day emission rate of 0.23 lb/MMBtu to account for the emissions from startup and shutdown periods. The upward revision from 0.225 lb/MMBtu to 0.23 lb/MMBtu represents a difference of approximately two percent. We consider this degree of upward revision reasonable to account for startup and shutdown periods.

Furthermore, as explained by ADEQ in its response to comments from the Conservation Organizations, one of the other scenarios modeled by AEPCO and included in its May 2013 petition, a scenario known as 9b PNGt, used more conservative emission factors.[15] In particular, 9b PNGt included a NO_X emission factor of 0.230 lb/MMBtu for ST3, which is equivalent to the emission limit for this unit in the Apache SIP Revision. In its response to comments, ADEQ compared the results of this modeling run to the baseline results and the BART case. ADEQ found that the Apache BART Alternative (as represented by 9b PNGt) would result in improved visibility at all affected Class I areas compared to the baseline and would result in improved visibility, on average, across all affected Class I areas compared with BART.[16] Thus, the results of 9b PNGt confirm ADEQ's determination that the Apache BART Alternative would achieve greater reasonable progress than BART.

Comment: The Conservation Organizations noted that the modeling cited in EPA's proposal shows that visibility at two Class I areas—the Gila and Mt. Baldy Wilderness Areas—will be worse under the BART Alternative compared to BART. The commenters asserted that EPA should update its modeling to correct the alleged flaws identified by the commenters and confirm whether the BART Alternative will in fact result in less visibility improvement at these

[15] Apache SIP Revision, Responsiveness Summary at 13.
[16] *Id.* at 13-14.

two Class I areas. They argued that "EPA's failure to consider measures to improve visibility at every Class I area impacted by Apache is contrary to the intent of the regional haze regulations."

Response: We agree that modeling indicates that visibility at two Class I areas—the Gila and Mt. Baldy Wilderness Areas—will be slightly worse under the BART Alternative compared to BART. However, this does not preclude approval of the Apache BART Alternative because, as explained in our proposal, the BART Alternative will result in improved visibility at all affected Class I areas compared with baseline conditions[17] and will result in improved visibility, on average, across all Class I Areas, compared with BART. As EPA explained in the preamble to the final BART Alternative Rule:

> . . . within a regional haze context, not every measure taken is required to achieve a visibility improvement at every class I area. BART is one component of long term strategies to make reasonable progress, but it is not the only component. The requirement that the alternative achieves greater progress based on the average improvement at all Class I areas assures that, by definition, the alternative will achieve greater progress overall. Though there may be cases where BART could produce greater improvement at one or more class I areas, the no-degradation prong assures that the alternative will not result in worsened conditions anywhere than would otherwise exist. . . [18]

Thus, in promulgating the BART Alternative requirements, EPA clearly contemplated that there could be instances where a BART alternative would result in less progress at a particular Class I area, yet ensure overall greater reasonable progress than BART. This is the case with the Apache BART Alternative.

Comment: The Conservation Organizations argued that EPA's modeling is flawed because it only considered visibility impacts at Class I areas within 300 kilometers (km) of Apache. Citing a recent evaluation of CALPUFF by EPA,[19] they commented that "the model is

[17] Here "baseline" refers to controls in place at Apache as of 2013. See 79 FR 56326, footnote 30.
[18] 71 FR 60612, 60621-22.
[19] "Documentation of the Evaluation of CALPUFF and Other Long Range Transport Models Using Tracer Field Experiment Data" (2012), is available at http://www.epa.gov/ttn/scram/reports/EPA-454_R-12-003.pdf.

more accurate at farther distances than previously assumed." Therefore, they asserted that EPA should have considered Apache's visibility impacts at a radius of 500 km.

Response: We do not agree that we should have considered visibility impacts at Class I areas greater than 300 km from Apache. The report cited by the Conservation Organizations does not support the regulatory use of CALPUFF beyond 300 km, nor does it refute the 1998 Interagency Workgroup on Air Quality Modeling (IWAQM) Phase 2 report, which states that "use of CALPUFF for characterizing transport beyond 200 to 300 km should be done cautiously with an awareness of the likely problems involved."[20] Consistent with this recommendation, our BART analysis in the Arizona Regional Haze FIP evaluated visibility impacts and improvements at the nine Class I areas within 300 km of Apache.[21] It was reasonable for ADEQ and EPA to consider these same Class I areas when assessing the Apache BART Alternative.

Comment: Citing the preambles to EPA's proposed and final revisions to the RHR concerning BART alternatives, the Conservation Organizations asserted that the weight-of-evidence alternative to the two-part test is generally appropriate only when a state cannot conduct the two-part test, or when the state has significant confidence that a BART alternative will have greater visibility benefits than BART. They argued that Arizona's weight-of-evidence approach was inappropriate here because the state had sufficient data to conduct the two-part test and "could not have had confidence that the alternative would result in superior visibility benefits."

Response: We do not agree with this comment. Nothing in the RHR or in the preamble language cited by the commenters indicates that the weight-of-evidence test is appropriate only when a state cannot conduct the two-part test, or when the state has significant confidence that a

[20] "IWAQM Phase 2 Summary Report and Recommendations for Modeling Long Range Transport Impacts," available at: http://www.epa.gov/scram001/7thconf/calpuff/phase2.pdf, at 18.
[21] *See* 77 FR 42834, 42857 ("The nine Class I areas within 300 km of Apache were modeled").

BART alternative will have greater visibility benefits than BART. In the preamble to the 2006 final revisions to the RHR, EPA explained that we were adopting a weight of evidence test "as an alternative to the methodology set forth in section 51.308(e)(3)."[22] EPA described the factors that could be considered as part of such test and suggested specific circumstances where a weight of evidence comparison "may be warranted."[23] However, EPA did not indicate that these were the only circumstances in which this approach could be employed.

In this instance, ADEQ found that the two-prong test as described in 40 CFR 51.308(e)(3) was not appropriate and therefore chose to apply the clear weight of evidence test. Nonetheless, as explained in our proposal, we applied a modified version of the two-prong test, using the 98th percentile impacts (averaged across three years), rather than the best twenty-percent days and worst twenty-percent days, as provided for in 40 CFR 51.308(e)(3).[24] The Apache BART Alternative meets both prongs of this modified test, which strongly supports the conclusion that the Apache BART Alternative would achieve greater reasonable progress than BART.

Comment: The Conservation Organizations asserted that the Apache BART Alternative could be improved to achieve additional emissions reductions. In particular, the commenters suggested that EPA could require AEPCO to install SNCR at ST2 and switch ST3 to gas, rather than switching ST2 to gas and installing SNCR at ST3. They also encouraged EPA to consider capacity limitations or other operational limits to improve the alternative.

Response: We do not agree that we can amend the Apache BART Alternative to provide greater emission reductions. Under the CAA, if EPA determines that a SIP meets the requirements of the CAA and EPA's implementing regulations, we are obligated to approve the

[22] 71 FR 60612, 60621-22.
[23] *Id.* at 60622.
[24] 79 FR 56328.

SIP.[25] For the reasons described in our proposal and elsewhere in this document, we have determined that the Apache SIP revision meets the applicable requirements of the CAA and EPA's regulations, and we are therefore required to approve it.

III. Final Action

As explained in our proposal and this document, we have determined that the Apache SIP Revision would provide for greater reasonable progress toward natural visibility conditions than BART. We have also determined that the Apache SIP Revision meets all other requirements of the CAA and EPA's implementing regulations with one exception: the Apache Permit Revision incorporates by reference certain state regulations that establish an affirmative defense for malfunctions (R-18-2-101, paragraph 65; R18-2-310, sections (A), (B), (D) and (E); and R18-2-310.01).[26] In a letter dated February 19, 2015, ADEQ requested that EPA not act on these provisions of the Apache SIP Revision at this time.[27] Accordingly, we are taking final action to approve the Apache SIP Revision except for the affirmative defense provisions contained in the Apache Permit Revision. We are also taking final action to revise the Arizona Regional Haze FIP to remove those portions that apply to Apache. The withdrawal of the FIP, as it applies to Apache, also constitutes our final action on AEPCO's petition for reconsideration of the FIP.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the ADEQ permit revision described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through

[25] *See* CAA section 110(k)(3).
[26] See Apache Permit Revision section V.D.
[27] See Letter from Eric Massey, ADEQ, to Jared Blumenfeld, EPA (February 19, 2015).

www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This rule applies to only one facility and is therefore not a rule of general applicability.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county,

town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Firms primarily engaged in the generation, transmission, and/or distribution of electric energy for sale are small if, including affiliates, the total electric output for the preceding fiscal year did not exceed 4 million megawatt hours. AEPCO sold under 3 million megawatt hours in 2013 and is therefore a small entity.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The approval of the SIP, if finalized, merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. See Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985). The FIP withdrawal would alleviate economic impacts on AEPCO and therefore would not have a significant adverse impact on any small entity.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule does not impose regulatory requirements on any government entity.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or in the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13175 (65 FR 67249, November 9, 2000), EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule. The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This action addresses regional haze and visibility protection.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is exempt under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104-113, 12 (10) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by the VCS bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when the Agency decides not to use available and applicable VCS.

EPA believes that VCS are inapplicable to this action. This action does not require the public to perform activities conducive to the use of VCS.

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

Executive Order 12898 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population, at a lower cost than the FIP**.**

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 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. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency

parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability that only applies to a single named facility.

L. Petitions for Judicial Review

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 rule 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 CAA section 307(b)(2).

In addition, pursuant to section 307(d)(1)(B) and (V) of the CAA, the Administrator determines that this action is subject to the provisions of section 307(d). Section 307(d) establishes procedural requirements specific to certain rulemaking actions under the CAA. Pursuant to CAA section 307(d)(1)(B), the withdrawal of the provisions of the Arizona Regional Haze FIP that apply to Apache is subject to the requirements of CAA section 307(d), as it constitutes a revision to a FIP under CAA section 110(c). Furthermore, CAA section 307(d)(1)(V) provides that the provisions of section 307(d) apply to "such other actions as the Administrator may determine." The Administrator determines that the SIP approval portion of this action is also subject to 307(d). While the Administrator did not explicitly make this determination earlier, all of the procedural requirements, e.g., docketing, hearing and comment periods, of section 307(d) have been complied with during the course of this rulemaking.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Visibility, Volatile organic compounds.

Dated: February 27, 2015.

Gina McCarthy,

Administrator.

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 D--Arizona

2. Section 52.120 is amended by adding paragraph (c)(165) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(165) The following plan was submitted May 13, 2014, by the Governor's designee:

(i) *Incorporation by reference.*

(A) Arizona Department of Environmental Quality.

(*1*) Significant Revision No. 59195 to Air Quality Control Permit No. 55412, excluding section V.D., issued May 13, 2014.

(ii) Additional materials.

(A) Arizona Department of Environmental Quality.

(1) Arizona State Implementation Plan, Revision to the Arizona Regional Haze Plan for Arizona Electric Power Cooperative, Incorporated, Apache Generating Station, excluding the appendices.

3. Section 52.145 is amended by revising paragraphs (f) introductory text, (f)(1), (f)(2), (f)(3)(i), (f)(4)(ii), and (f)(5)(i)(A) and (B) and removing and reserving paragraph (f)(5)(ii)(B) to read as follows:

§ 52.145 Visibility protection.

* * * * *

(f) *Source-specific federal implementation plan for regional haze at Cholla Power Plant and Coronado Generating Station* -- (1) *Applicability.* This paragraph (f) applies to each owner/operator of the following coal-fired electricity generating units (EGUs) in the state of Arizona: Cholla Power Plant, Units 2, 3, and 4 and Coronado Generating Station, Units 1 and 2. The provisions of this paragraph (f) are severable, and if any provision of this paragraph (f), or the application of any provision of this paragraph (f) to any owner/operator or circumstance, is held invalid, the application of such provision to other owner/operators and other circumstances, and the remainder of this paragraph (f), shall not be affected thereby.

(2) *Definitions.* Terms not defined below shall have the meaning given to them in the Clean Air Act or EPA's regulations implementing the Clean Air Act. For purposes of this paragraph (f):

ADEQ means the Arizona Department of Environmental Quality.

Boiler-operating day means a 24-hour period between 12 midnight and the following midnight during which any fuel is combusted at any time in the unit.

Coal-fired unit means any of the EGUs identified in paragraph (f)(1) of this section.

Continuous emission monitoring system or CEMS means the equipment required by 40 CFR part 75 and this paragraph (f).

Emissions limitation or emissions limit means any of the Federal Emission Limitations required by this paragraph (f) or any of the applicable PM_{10} and SO_2 emissions limits for Cholla Power Plant and Coronado Generating Station submitted to EPA as part of the Arizona Regional

Haze SIP in a letter dated February 28, 2011, and approved into the Arizona State Implementation Plan on December 5, 2012.

Flue Gas Desulfurization System or FGD means a pollution control device that employs flue gas desulfurization technology, including an absorber utilizing lime, fly ash, or limestone slurry, for the reduction of sulfur dioxide emissions.

Group of coal-fired units mean Units 1 and 2 for Coronado Generating Station and Units 2, 3, and 4 for Cholla Power Plant.

lb means pound(s).

NO_X means nitrogen oxides expressed as nitrogen dioxide (NO_2).

Owner(s)/operator(s) means any person(s) who own(s) or who operate(s), control(s), or supervise(s) one or more of the units identified in paragraph (f)(1) of this section.

MMBtu means million British thermal unit(s).

Operating hour means any hour that fossil fuel is fired in the unit.

PM_{10} means filterable total particulate matter less than 10 microns and the condensable material in the impingers as measured by Methods 201A and 202 in 40 CFR part 51, appendix M.

Regional Administrator means the Regional Administrator of EPA Region IX or his/her authorized representative.

SO_2 means sulfur dioxide.

SO_2 removal efficiency means the quantity of SO_2 removed as calculated by the procedure in paragraph (f)(5)(iii)(B) of this section.

Unit means any of the EGUs identified in paragraph (f)(1) of this section.

Valid data means data recorded when the CEMS is not out-of-control as defined by 40 CFR part 75.

(3) * * *

(i) *NO_X emission limitations*. The owner/operator of each coal-fired unit subject to this paragraph (f) shall not emit or cause to be emitted NO_X in excess of the following limitations, in pounds per million British thermal units (lb/MMBtu) from any group of coal-fired units. Each emission limit shall be based on a rolling 30-boiler-operating-day average, unless otherwise indicated in specific paragraphs.

Group of coal-fired units	**Federal emission limitation**
Cholla Power Plant Units 2, 3, and 4	0.055
Coronado Generating Station Units 1 and 2	0.065

* * * * *

(4) * * *

(ii) The owners/operators of each unit subject to this paragraph (f) shall comply with the applicable PM_{10} and SO_2 emissions limits submitted to EPA as part of the Arizona Regional Haze SIP in a letter dated February 28, 2011, and approved into the Arizona State Implementation Plan on December 5, 2012, as well as the related compliance, recordkeeping and reporting of this paragraph (f) no later than the following dates:

Unit	**Compliance date**	
	PM_{10}	**SO_2**
Cholla Power Plant, Unit 2	April 1, 2016	April 1, 2016.

Cholla Power Plant, Unit 3	June 3, 2013	June 3, 2013.
Cholla Power Plant, Unit 4	June 3, 2013	June 3, 2013.
Coronado Generating Station, Unit 1	June 3, 2013	June 3, 2013.
Coronado Generating Station, Unit 2	June 3, 2013	June 3, 2013.

* * * * *

(5) * * *

(i) * * *

(A) At all times after the compliance date specified in paragraph (f)(4) of this section, the owner/operator of each coal-fired unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure SO_2, NO_X, diluent, and stack gas volumetric flow rate from each unit. In addition, the owner/operator of Cholla Units 2, 3, and 4 shall calibrate, maintain, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure SO_2 emissions and diluent at the inlet of the sulfur dioxide control device. All valid CEMS hourly data shall be used to determine compliance with the emission limitations for NO_X and SO_2 in paragraph (f)(3) of this section for each unit. When the CEMS is out-of-control as defined by 40 CFR part 75, that CEMs data shall be treated as missing data, and not used to calculate the emission average. Each required CEMS must obtain valid data for at least 90 percent of the unit operating hours, on an annual basis.

(B) The owner/operator of each unit shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. In addition to these 40 CFR part 75 requirements, relative accuracy test audits shall be calculated for both the NO_X and SO_2 pounds per hour measurement and the heat input measurement. The CEMs monitoring data shall not be bias adjusted. The inlet

SO_2 and diluent monitors required by this rule shall also meet the Quality Assurance/Quality Control (QA/QC) requirements of 40 CFR part 75. The testing and evaluation of the inlet monitors and the calculations of relative accuracy for lb/hr of NO_X, SO_2 and heat input shall be performed each time the 40 CFR part 75 CEMS undergo relative accuracy testing. In addition, relative accuracy test audits shall be performed in the units of lb/MMBtu for the inlet and outlet SO_2 monitors at Cholla Units 2, 3, and 4.

(ii) * * *

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(B) [Reserved]

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