



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0271; FRL-9963-79-Region 9]

Approval and Promulgation of Air Quality Implementation Plans; Nevada; Rescission of Visibility Protection Federal Implementation Plan for the Mohave Generating Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to rescind the visibility protection federal implementation plan (FIP) that we promulgated on February 8, 2002, to regulate air pollutant emissions from the Mohave Generating Station (MGS), located in Clark County, Nevada. The EPA is proposing this action in response to the Nevada Division of Environmental Protection's (NDEP) request dated March 25, 2016. The request seeks rescission of the FIP because MGS had been decommissioned and demolished, as demonstrated by the supporting documentation provided by the NDEP.

DATES: Any comments on this proposal must arrive by **[insert date 45 days after date of publication in the Federal Register]**. Requests for public hearing must be received on or before **[insert date 15 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-R09-OAR-2017-0271, at <http://www.regulations.gov>, or via email to viswanathan.krishna@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section. For the EPA’s full 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: Krishna Viswanathan, EPA Region IX, (520) 999-7880, viswanathan.krishna@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Background

The EPA promulgated a revision to the long-term strategy of the Nevada Visibility FIP on February 8, 2002, to regulate air pollutant emissions from MGS (“MGS FIP”).¹ The requirements of the MGS FIP were based on a consent decree between the owners of MGS and

¹ 40 CFR 52.1488(d). *See also* 67 FR 6130 (February 8, 2002) (final rule) and 65 FR 45003 (July 20, 2000) (proposed rule).

the Grand Canyon Trust, the Sierra Club, and the National Parks Conservation Association. The MGS FIP addressed concerns raised by the Department of Interior regarding MGS's contribution to visibility impairment at the Grand Canyon National Park due to sulfur dioxide emissions.

On December 31, 2005, MGS ceased operations. On June 10, 2009, the owners of MGS announced their decision to decommission and dismantle MGS, and subsequently submitted a request to the NDEP to terminate its Class I Air Quality Operating Permit, No. AP4911-0774, FIN A0013. The NDEP, on April 9, 2010, granted the owners' request on the basis that MGS had ceased all operations related to electricity generation from burning coal and that MGS had received a new operating permit establishing the emission reduction credits for the permanent shutdown and dismantling of the main steam boilers. MGS was subsequently demolished on March 11, 2011, as acknowledged in separate EPA rulemakings.² On March 25, 2016, the NDEP submitted a request to us asking that we rescind the MGS FIP.³

The provisions of Clean Air Act section 307(d) apply to EPA's action to revise the MGS FIP by rescinding it, and this rulemaking is being conducted in accordance with those provisions.

The proposed action relies on documents, information, and data that are listed in the index on <http://www.regulations.gov> under docket number EPA-R09-OAR-2017-0271. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the Planning Office of the Air Division, AIR-2, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket.

² See 80 FR 55809, Table 1 (September 17, 2015) (explaining that MGS "ceased operations in December 2005 and was subsequently fully decommissioned and demolished").

³ Letter from David Emme, Administrator, NDEP, to Jared Blumenfeld, Regional Administrator, EPA Region 9, dated March 25, 2016, and attachments.

You may view the hard copy of the docket Monday through Friday, 9:00 - 5:00 PDT, excluding federal holidays.

II. Proposed Action

Based on our review of the information submitted with the March 25, 2016 letter from NDEP, we are proposing to grant NDEP's request to rescind the MGS FIP and update the Code of Federal Regulations to remove any references to MGS because MGS has been decommissioned and demolished.

III. Solicitation of Comments

The EPA solicits comments on any issues associated with rescinding the MGS FIP. In addition, if anyone contacts the EPA by **[insert date 15 days after date of publication in the Federal Register]** requesting to speak at a public hearing, the EPA will schedule a public hearing and announce the hearing in the **Federal Register**. Contact Krishna Viswanathan at the phone number or email address provided above to request a hearing or to find out if a hearing will be held.

IV. Environmental Justice Considerations

The EPA is proposing to rescind a FIP that is no longer applicable because the subject facility has been decommissioned and demolished. Therefore, the EPA considers this proposed action to have no potential disproportionately high and adverse effects on minority, low-income, or indigenous populations.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

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

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

B. *Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

C. *Regulatory Flexibility Act (RFA)*

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. This action will not impose any requirements on small entities because the rule merely rescinds a FIP covering a generating station that has been decommissioned and demolished.

D. *Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments.

E. *Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This action merely rescinds a FIP covering a generating station that has been decommissioned and demolished.

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

This action does not have tribal implications, as specified in Executive Order 13175. This proposed action will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. This action merely rescinds a FIP covering a generating station that has been decommissioned and demolished. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it merely rescinds a FIP covering a generating station that has been decommissioned and demolished.

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

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

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, the EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS because it merely rescinds a FIP covering a generating station that has been decommissioned and demolished.

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

The EPA believes that this proposed rule will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. Because this proposed rule merely rescinds a FIP covering a generating station that has been decommissioned and demolished, this proposal will not cause any emissions increases.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Sulfur oxides.

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

Dated: June 7, 2017.

Alexis Strauss,
Acting Regional Administrator,
EPA Region IX.

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

2. Section 52.1488 is amended by removing and reserving paragraph (d).

[FR Doc. 2017-12965 Filed: 6/21/2017 8:45 am; Publication Date: 6/22/2017]