



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2018-0607; FRL-9990-72-Region 8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving 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 finds that the BART alternative for Naughton Unit 3 provides greater reasonable progress toward natural visibility 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.

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0607. All documents in the docket are listed on the <http://www.regulations.gov> website. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please contact the person identified in the “For Further Information Contact” section for additional availability information.

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.

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

I. Background

The background for this action is discussed in detail in our November 7, 2018, proposal (83 FR 55656). In that document we proposed to approve the SIP revision that provides an alternative to BART for Unit 3 at the Naughton Power Plant.

Comments on the proposed rulemaking were due on or before December 7, 2018. The EPA received a total of three public comment submissions on the proposed approval, including a comment letter from the Wyoming Department of Environmental Quality Air Quality Division (AQD). All public comments received on this rulemaking action are available for review by the public and may be viewed by following the instructions for access to docket materials as outlined in the ADDRESSES section of this preamble. After reviewing the comments, the EPA has determined that one of the comment submissions is outside the scope of our proposed action and/or fails to identify any material issue necessitating a response. Our responses to the remaining two comment submissions are below.

II. Response to Comments

Comment: In a comment letter dated December 7, 2018, AQD stated that it “agrees with EPA that both the EPA’s and Wyoming’s analyses demonstrate that the emissions reductions

achievable through the alternative are better-than-BART.” However, the AQD maintained that “given the flexibilities afforded states under the BART Guidelines (70 FR 39129), the State’s use of potential-to-emit emissions in order to calculate reductions is permissible.” The AQD construed “EPA’s use of ‘anticipated annual emission rate’ as an EPA policy preference, not a requirement.”

Response: In 2006, the EPA finalized regulations that govern alternatives to source-specific BART determinations such as that contemplated in the Wyoming SIP revision for Naughton Unit 3.¹ These regulations “make clear that the emissions reductions that could be achieved through implementation of the BART provisions at §51.308(e)(1) [for source-by-source BART] serve as the benchmark against which States can compare an alternative program.”² In turn, the emissions reductions that could be achieved through source-by-source BART are calculated in accordance with the *Guidelines for BART Determinations Under the Regional Haze Rule*.³ The BART Guidelines are mandatory for powerplants exceeding 750 megawatts such as the Naughton Power Plant.⁴ The BART Guidelines specify, in general, that actual emissions, rather than potential emissions, should be used to calculate the emission reductions from BART. For example, when calculating both the baseline and anticipated emissions, and thereby the emission reductions, the BART Guidelines state:

The baseline emissions rate should represent a *realistic depiction of anticipated annual emissions* for the source. In general, for the existing sources subject to BART, you will

¹ 71 FR 60612 (October 13, 2006).

² *Id.* at 60615.

³ Appendix Y to 40 CFR part 51.

⁴ Generator-level information submitted to the U.S. Energy Information Agency on form EIA-860 shows a total nameplate capacity of 832 megawatts for the three electric generating units at the Naughton Plant. See form EIA-860 detailed data located in the docket. Note that the engineering analysis supporting the BART Guidelines identified affected electric generating units by nameplate generating capacity. 70 FR 39104, 39152–53 (July 6, 2005).

estimate the *anticipated annual emissions based upon actual emissions* from a baseline period.⁵

In addition, the BART Guidelines state:

When you project that future operating parameters (e.g., limited hours of operation or capacity utilization, type of fuel, raw materials or product mix or type) will differ from past practice, and if this projection has a deciding effect in the BART determination, then you must make these parameters or assumptions into enforceable limitations. In the absence of enforceable limitations, you calculate baseline emissions based upon continuation of past practice.⁶

Wyoming's BART determination for Naughton Unit 3, as approved by the EPA in 2014, is comprised of an emission limit of 0.07 lb/MMBtu (30-day rolling average) and does not include enforceable limitations that would constrain future operating parameters. This reinforces the conclusion that baseline emissions for Naughton Unit 3 should be based on actual emissions reflective of past practice.

Finally, note that the citation to the BART Guidelines given by AQD (to 70 FR 39129) refers to flexibilities afforded to the states in the context of assessing visibility improvements due to potential BART controls, and does not speak to whether actual or potential emissions should be used to calculate the emission reductions from BART in the course of a better-than-BART demonstration. Even still, in the context of assessing visibility improvements, the BART Guidelines are clear that *actual*, and not allowable, emission rates should be used:

On the other hand, in the long term, estimating visibility impacts based on allowable emission rates for every hour of the year may unduly inflate the maximum 24 hour

⁵ 70 FR 39167 (July 6, 2005) (emphases added).

⁶ Ibid.

modeled impairment estimate from a BART-eligible source. The emissions estimates used in the models are intended to reflect steady-state operating conditions during periods of high capacity utilization.⁷

Accordingly, because the BART Guidelines are mandatory for the Naughton Power Plant, and in this case require the use of actual emissions when calculating BART emission reductions, we disagree that the EPA's use of actual annual emissions represents a policy preference and that Wyoming's use of potential emissions for that purpose is permissible. Nonetheless, as noted by the commenter, the EPA agrees that in the case of the Naughton Unit 3 SIP revision, regardless of whether the emission reductions achievable with the BART alternative are assessed on a projected actual or allowable emissions basis, the anticipated NO_x emissions are lower under the BART alternative than under BART.⁸

Comment: AQD stated that, for the reasons noted in its SIP submittal, the AQD continues to maintain that use of an emission limit of 0.07 lb/MMBtu (30-day rolling average) is the appropriate BART emission limit for comparison purposes instead of EPA's use of an 0.05 lb/MMBtu emission rate.

Response: The BART Guidelines state that for EGUs, such as Naughton Unit 3, emission limits should specify an averaging time of a 30-day rolling average.⁹ In our 2014 final rule, we approved Wyoming's 30-day rolling average emission limit of 0.07 lb/MMBtu for Naughton Unit 3.¹⁰ However, as discussed in the comment response immediately above, in this case the BART regulations require that estimated actual emissions should be used when comparing the

⁷ *Id.* at 39129.

⁸ The annual NO_x emissions limit for the Naughton Unit 3 BART alternative of 519 tons/year is lower than the actual emission projected with BART by the EPA of 621 tons/year. See proposed rule at 83 FR 55646, 55662 (November 7, 2018).

⁹ 70 FR 39172 (July 6, 2005).

¹⁰ 79 FR 5032, 5045–56 (January 30, 2014).

emission reductions from BART to those from a BART alternative. Therefore, it is necessary to adjust the 30-day rolling average emission limit (lb/MMBtu) to an actual annual (lb/MMBtu) basis for this purpose. The former value will necessarily be higher than the latter value because of 1) the shorter averaging period, and 2) a margin for compliance. The need to adjust between the two values was discussed in the EPA's 2014 final rule approving the BART determination for Naughton Unit 3.¹¹ The need to adjust between these two values has also been recognized by other states (e.g., Colorado and North Dakota) in their regional haze SIPs that have been approved by the EPA.^{12,13} In addition, the relationship between the two values can be observed at other BART sources where selective catalytic reduction (SCR) has been installed and is subject to a 30-day rolling average emission limit of 0.07 lb/MMBtu. For example, as discussed in our proposed rule, Units 3 and 4 at the Jim Bridger Power Plant, which are subject to a 30-day rolling average emission limit of 0.07 lb/MMBtu, are achieving actual annual emissions rates of approximately 0.05 lb/MMBtu.¹⁴ For these reasons, we find that an estimated actual annual emission rate of 0.05 lb/MMBtu appropriately corresponds to the emission limit of 0.07 lb/MMBtu on a 30-day rolling average for Naughton Unit 3.

Comment: One commenter expressed support for the EPA's proposed approval of the SIP revision which would result in the transition of Naughton Unit 3 from coal to natural gas. The commenter stated that "natural gas is cleaner and more sustainable for our future, and therefore a

¹¹ *Id.* at 5167.

¹² Colorado Visibility and Regional Haze State Implementation Plan for the Twelve Mandatory Class I Federal Areas in Colorado, Colorado Air Pollution Control Division, pages 132 and 145, adopted January 7, 2011. Also, see Appendix C: Technical Support Documents for BART Determinations.

¹³ North Dakota State Implementation Plan for Regional Haze, North Dakota Department of Health, adopted February 24, 2010. See Appendix B: Department BART Determinations for Subject-to-BART Sources in North Dakota.

¹⁴ 83 FR 55656, 55662 (November 7, 2018).

public benefit.” The commenter also stated that “PacifiCorp will have to modernize their coal combustion power plants at some point regardless.”

Response: We acknowledge the commenter’s support for our proposed approval of the SIP revision for Naughton Unit 3.

III. Final Action

In this action, the EPA is approving Wyoming’s SIP revision for the Alternative to BART for NO_x 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 approving the following federally enforceable elements of the SIP revision for Naughton Unit 3:

- The NO_x 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), as shown in the table below.

Pollutant	lb/MMBtu	lb/hr	tons/year
NO _x	0.12 (30-day rolling average)	250.0 (30-day rolling)	519.0
PM/PM ₁₀ ^(a)	0.008 ^(b)	30.0 ^(b)	52.0

^(a) Total PM/PM₁₀.

^(b) Averaging period is one hour as determined by 40 CFR 60.46 and an applicable Reference Test Method.

- 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_x 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_x 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_x 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).

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SIP amendments described in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through 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). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and

113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹⁵

V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

¹⁵ 62 Fed. Reg. 27968 (May 22, 1997).

- 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 rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and 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). Because this is a rule of particular applicability, the EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 15, 2019.

Douglas Benevento,
Regional Administrator,
EPA Region 8.

40 CFR part 52 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 ZZ—Wyoming

2. Section 52.2620 is amended by adding to the table in paragraph (d) an entry for “Naughton Unit 3” at the end of the table; and by adding to the table in paragraph (e), in numerical order, an entry for “(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	[date 30 days after date of publication in the <u>Federal Register</u>]	[<u>Federal Register</u> CITATION] [<u>Federal Register</u> DATE OF PUBLICATION]	Only the following permit provisions: NOx and PM emission limits (MD-15946 condition 5, for lb/hr and tons/year emission limits; P0021110, condition 7, for lb/MMbtu emission limits); 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, recordkeeping, and reporting requirements (P0021110, conditions 4, 6, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 21, and 24).
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(e) * * *

Rule No.	Rule title	State effective date	EPA Effective date	Final rule/citation date	Comments
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(32) XXXII	Wyoming State Implementation Plan 5-Year Progress Report for Regional Haze, Appendix B: Alternative to BART for NO _x and PM for PacifiCorp Naughton Unit 3	November 28, 2017	[date 30 days after date of publication in the <u>Federal Register</u>]	<u>Federal Register</u> citation], <u>Federal Register</u> date of publication]	Only includes Appendix B: Alternative to BART for NO _x and PM for PacifiCorp Naughton Unit 3

3. Section 52.2636 is amended by revising paragraph (a)(1)(vii) and Table 1 to § 52.2636 in paragraph (c)(1) 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_x); 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 _x 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 ¹	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 2 ¹	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 3 ¹	0.03	0.26/0.07
PacifiCorp Jim Bridger Power Plant/Unit 4 ¹	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

¹The owners and operators of PacifiCorp Jim Bridger Units 1, 2, 3, and 4 shall comply with the NO_x 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_x 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.

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