

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CO-001-0027b, CO-001-0028b, and CO-001-0033b; FRL-6358-7]

#### Clean Air Act Approval and Promulgation of State Implementation Plan; Colorado; Revisions Regarding Negligibly Reactive Volatile Organic Compounds and Other Regulatory Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA approves three revisions to the Colorado State Implementation Plan (SIP). The SIP revisions being approved include: an update to the State's list of negligibly reactive volatile organic compounds (VOCs) to add acetone. The State also consolidated the list of negligibly reactive VOCs from Regulations No. 3 and 7 into the Common Provisions Regulation. These revisions were submitted for approval on September 16, 1997; a clarification to the definition of "applicable requirement" and corrections of typographical errors in parts A and B of Colorado Regulation No. 3. These revisions were also submitted on September 16, 1997; and an update to the list of negligibly reactive VOCs in the Common Provisions Regulation to add perchloroethylene. The State also repealed its requirements in Regulation No. 7 that required control of VOC emissions from dry cleaning facilities using perchloroethylene as a solvent. These revisions were submitted for approval on August 19, 1998.

In the "Rules and Regulations" section of this **Federal Register**, we approve the State's submittals as a direct final rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comments. A detailed rationale for the approval is set forth in the preamble of the direct final rule. If no adverse comments are submitted, we will not take further action on this proposed rule. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Comments must be received in writing on or before July 19, 1999.

**ADDRESSES:** You should mail your written comments to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relative to this action are available for inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado.

**FOR FURTHER INFORMATION CONTACT:** Vicki Stamper, EPA Region VIII, (303) 312-6445.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: June 2, 1999.

**Carol Rushin,**

*Acting Regional Administrator, Region VIII.*

[FR Doc. 99-15162 Filed 6-16-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL-6362-5]

RIN 2060-ZA07

#### Assessment of Visibility Impairment at the Grand Canyon National Park: Advance Notice of Proposed Rulemaking

**AGENCY:** Environmental Protection Agency.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) is providing advance notice of proposed rulemaking regarding visibility impairment at the Grand Canyon National Park (GCNP) and the possibility that the Mohave Generating Station (MGS) in Laughlin, Nevada may contribute to that impairment. The purpose of this advance notice is to explain provisions in the Clean Air Act and EPA regulation for protecting visibility in national parks and wilderness areas. This notice also describes the Department of the Interior

(DOI) certification of visibility impairment at the Grand Canyon and the statement made by the Department that it believes the MGS is contributing to this impairment. This notice also presents a summary of the methodologies and results of Project MOHAVE, the study which evaluated the impacts of emissions from the MGS on visibility at the GCNP. In this notice, EPA is also requesting additional information that it should consider in determining whether visibility problems at the GCNP can be reasonably attributed to MGS, and if so, what, if any, pollution control requirements should be applied. EPA is not proposing any specific action regarding the MGS at this time but is providing background information and requesting additional information that the agency should consider.

**DATES:** Comments on this advanced notice of proposed rulemaking must be submitted no later than August 16, 1999.

**ADDRESSES:** Comments should be submitted (in duplicate, if possible) to: EPA Region IX, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, Attn: Regina Spindler (Phone: 415-744-1251).

**Docket:** EPA has established a docket for this document, Docket Number A2-99-01. Materials related to the development of this notice have been placed in this docket. The docket is available for review at: EPA Region IX, Air Division, 75 Hawthorne Street, San Francisco, CA 94105. Interested persons may make an appointment with Regina Spindler, (415) 744-1251, to inspect the docket at EPA's San Francisco office on weekdays between 9 a.m. and 4 p.m.

**Electronic Availability:** This document is also available as an electronic file on the EPA Region IX Web Page at <http://www.epa.gov/region09>.

**FOR FURTHER INFORMATION CONTACT:** Regina Spindler (415) 744-1251, Planning Office (AIR2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

#### SUPPLEMENTARY INFORMATION:

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## I. Background

### A. Statutory and Regulatory Framework

#### 1. Clean Air Act Visibility Requirements

Section 169A of the Clean Air Act (Act or CAA), 42 U.S.C. 7491, provides for a visibility protection program and sets forth 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." (The terms "impairment of visibility" and "visibility impairment" are defined in the Act to include reduction in visual range and atmospheric discoloration.) Section 169A requires EPA, after consultation with the Secretary of the Interior, to promulgate a list of "mandatory Class I Federal areas" where visibility is an important value. These areas include international parks, national wilderness areas and national memorial parks greater than five thousand acres in size, and national parks greater than six thousand acres in size, as described in section 162(a) of the Act, 42 U.S.C. 7472(a). Each mandatory Class I Federal area is the responsibility of a Federal Land Manager (FLM), the Secretary of the federal department with authority over such lands. Section 302(i) of the Act, 42 U.S.C. 7602(i). On November 30, 1979, EPA identified 156 such mandatory Class I Federal areas, including the Grand Canyon National Park in Arizona. 44 FR 69122.

Section 169A(a)(1) of the Act states that "Congress declares 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." Section 169A(a)(4) requires EPA to

promulgate regulations to assure reasonable progress toward meeting these national visibility protection goals. EPA's regulations must require each state with a mandatory Class I Federal area (or states with emissions that may reasonably be anticipated to cause or contribute to visibility impairment in a mandatory Class I Federal area) to revise the applicable implementation plan for that state (SIP) to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national visibility protection goal. CAA section 169A(b)(2), 42 U.S.C. 7491(b)(2). The SIP revisions for these subject states must require each existing major stationary source<sup>1</sup> that emits any air pollutant that may reasonably be anticipated to cause or contribute to visibility impairment in a mandatory Class I Federal area to install and operate "best available retrofit technology" (BART) for controlling emissions from such source to eliminate or reduce visibility impairment. CAA section 169A(b)(2)(A), 42 U.S.C. 7491(b)(2)(A). Pursuant to section 169A(b)(2)(B) of the Act, 42 U.S.C. 7491(b)(2)(B), EPA's regulations must further require these states to include long term strategies in their SIP revisions for making reasonable progress toward meeting the national goal. Section 110(a)(2)(J) of the Act, 42 U.S.C. 7410(a)(2)(J), provides a corollary provision that requires SIPs to meet the visibility protection requirements of part C of the Clean Air Act.

#### 2. EPA's Visibility Regulations

On December 2, 1980, EPA promulgated what it described as the first phase of the required visibility regulations, codified at 40 CFR 51.300–307. (45 FR 80084). These visibility regulations apply to 36 states, including Nevada, that contain mandatory Class I Federal areas. The visibility regulations require these 36 states to comply with the requirements set forth above, including (1) coordinating development

<sup>1</sup> For purposes of the visibility protection requirements, the term "major stationary source" in the statute generally means any of a list of 26 different categories of stationary sources of air pollutants, which has the potential to emit 250 tons per year or more of any air pollutant. CAA section 169A(g)(7), 42 U.S.C. 7491(g)(7). The statutory provisions apply to such "major stationary sources" which were not in operation prior to August 7, 1962, and were in existence on August 7, 1977. CAA section 169A(b)(2)(A), 42 U.S.C. 7491(b)(2)(A). The term "existing stationary facility" is defined to include these statutory criteria. In addition, the definition of "existing stationary facility" includes any reconstructed source and provides that fugitive emissions are included in determining the potential emissions from a source. 40 CFR 51.301(e).

of SIP requirements with appropriate FLMs; (2) developing a program to assess and remedy visibility impairment from new and existing sources; (3) developing a long-term strategy (10–15 years) to assure reasonable progress toward the national visibility goal; (4) developing a visibility monitoring strategy to collect information on visibility conditions; and (5) considering in all aspects of visibility protection any "integral vistas" (important views of landmarks or panoramas that extend outside of the boundaries of the Class I area) identified by the FLMs as critical to a visitor's enjoyment of the Class I area. 40 CFR 51.300–307.<sup>2</sup>

An FLM may, at any time, certify to a state that impairment of visibility exists in a mandatory Class I Federal area. 40 CFR 51.302(c). If the FLM certifies such impairment at least 6 months prior to submission of a revised SIP, an affected state must (1) identify each existing stationary facility which may "reasonably be anticipated to cause or contribute" to any impairment which is "reasonably attributable to that existing stationary facility," and (2) analyze and determine what emission limitation represents the "best available retrofit technology" at each such facility. 40 CFR 51.302(c)(4). Visibility impairment is "reasonably attributable" to a facility if it is "attributable by visual observations or any other technique the state deems appropriate." 40 CFR 51.301(s). The state must also include in its plan an assessment of visibility impairment and a discussion of how each element of the plan relates to preventing future or remedying existing impairment in any mandatory Class I Federal area in the state. 40 CFR 51.302(c)(2)(ii). The visibility regulations also provide for periodic review, and revision as appropriate, of the long-term strategy for making reasonable progress toward the visibility goals at a minimum frequency of every three years. 40 CFR 51.306(c). The 36

<sup>2</sup> These visibility regulations only address the type of visibility impairment that is "reasonably attributable" to a single source or small group of sources. In 1980 when EPA promulgated these regulations, EPA deferred setting SIP requirements to address visibility impairment caused by "regional haze" (i.e., a widespread, regionally homogeneous haze from a multitude of sources which impairs visibility in every direction over a large area) due to the complexity and technical limitations inherent in attempting to identify, measure, and control this type of widespread visibility impairment. In 1993, the National Academy of Sciences concluded that "current scientific knowledge is adequate and control technologies are available for taking regulatory action to improve and protect visibility." EPA promulgated regulations to address regional haze on April 22, 1999.

affected states were required to submit revisions to their SIPs to comply with these requirements by September 2, 1981. 40 CFR 51.302(a)(1).

### 3. Federal Implementation Plans for Visibility Protection

Most states did not meet the September 2, 1981 deadline for submitting a SIP revision to address visibility protection. A number of environmental groups filed a citizen suit seeking to compel EPA to promulgate its own visibility implementation plans for the states that had failed to submit SIPs to EPA, pursuant to section 110(c) of the Act. In the final rule published on November 24, 1987, EPA disapproved the SIPs of 29 states, including Nevada, for failure to comply with the visibility SIP requirements of 40 CFR 51.300–307. In order to implement the visibility protection program, EPA promulgated a federal implementation plan (FIP) for each state that failed to submit a visibility plan, including Nevada. 52 FR 45132 (November 24, 1987) codified at 40 CFR 52.27, 52.29 and 52.1488. See also 40 CFR 52.26 and 52.28.

In the preamble to the proposed FIP, EPA addressed certifications of existing visibility impairment (i.e., certifications of impairment that the FLM submitted prior to June 1, 1986) submitted by the FLM. The FLM certified that there was impairment in all Class I areas in the lower 48 states. EPA reviewed the certification for each Class I area, and determined that there was insufficient information or technical support to determine if the impairment existed within certain Class I areas, or to positively attribute impairment to any specific source or sources. In other Class I areas, research was underway but not yet completed to better characterize and identify the sources of impairment. In one other area, EPA had approved the SIP for visibility in that state and assumed that the certification of impairment would be addressed in the periodic report required by the state's visibility SIP. 52 FR 7802, 7805–7807 (March 12, 1987). For these reasons, EPA determined that, as of the final rulemaking (November 24, 1987), states were not required to include Best Available Retrofit Technology (BART) requirements in their implementation plans to address existing impairment. 52 FR 45132, 45133–45134. The EPA, however, acknowledged that information could become available in the future indicating impairment and that the FLM could certify the existence of visibility impairment at any time. Any future certifications of visibility impairment would be addressed by either the state or EPA (if the state SIP

remains disapproved for visibility protection). 52 FR 45132, 45136.

In the visibility protection FIP, EPA established requirements for visibility monitoring, new source review (in attainment and nonattainment areas) and a long term strategy to make progress toward the national visibility protection goal. To fulfill these requirements, EPA is authorized to utilize such monitoring techniques that it deems appropriate and to promulgate such measures, including control strategies, that EPA deems necessary to make reasonable progress toward the national visibility goal. 40 CFR 52.26–52.29. As such, if a FLM makes a certification of visibility impairment involving a state that does not have an approved SIP, EPA determines whether visibility impairment in a mandatory Class I Federal area is reasonably attributable to an existing stationary facility (defined in footnote 1, above). As noted above, EPA acknowledged that the FLMs may certify visibility impairment in a Class I Federal area at any time, and provided that future certifications of visibility impairment by the FLMs would be addressed through the general plan requirements and the periodic review requirements set forth in 40 CFR 51.302(c), 51.306(c), 52.26, and 52.29(c). In the preamble to the visibility FIP, EPA noted that it “may need to reassess the need for BART or other control measures” to remedy future certifications of impairment by the FLM. 52 FR 7802, 7808 (March 12, 1987). In the preamble to the final rule, EPA noted that “[A]ny certification of impairment made to a State, or to EPA in lieu of a State, would then be addressed in the periodic review of the visibility SIP or FIP.” 52 FR 45132, 45136 (November 24, 1987).

If the state (or EPA) determines that impairment is reasonably attributable to an existing stationary facility, then the applicable plan's strategy for making progress toward the visibility goal would include a determination of BART for that existing stationary facility. 40 CFR 51.302, 52.26 and 52.29. See also 52 FR 7802, 7808 (March 12, 1987) and 52 FR 45132, 45136 (November 24, 1987). BART must be installed and operated as expeditiously as practicable, but in no case later than five years from the date that the state (or EPA) determines visibility impairment in a Class I Federal area is reasonably attributable to the source(s). (See discussion of BART in section III.B., *infra*.)

### 4. “Reasonable Attribution” Determination for Navajo Generating Station

The threshold for determining whether visibility impairment is reasonably attributable to a stationary facility was reviewed by the U.S. Court of Appeals for the Ninth Circuit in *Central Arizona Water Conservation District, et al. v. Environmental Protection Agency*, 990 F.2d 1531, 1541, cert. denied, 114 S. Ct. 94 (1993). In *CAWCD*, the petitioners challenged a final rule by EPA that visibility impairment was reasonably attributable to the Navajo Generating Station (NGS). EPA had found that visibility impairment in the Grand Canyon National Park could in part be reasonably attributed to sulfur dioxide emissions from the NGS and required installation and operation of pollution controls at the plant as part of the long term strategy for addressing visibility impairment. EPA acknowledged that NGS was not the only source of visibility impairment at the Grand Canyon. The petitioners argued, among other things, that EPA was limited to certain techniques for attributing impairment to a particular source, and that EPA overestimated the improvement in visibility expected from installing and operating controls at NGS. The Ninth Circuit denied the petition for review. The Court concluded that the record more than adequately supported EPA's conclusion that visibility impairment was attributable to NGS. The Court noted that the facts showing the existence of other sources of impairment

hardly mean that EPA is without statutory authority to remedy the impairment attributable to NGS. Even if the Final Rule addresses only a small fraction of the visibility impairment at the Grand Canyon, EPA still has the statutory authority to address that portion of the visibility impairment problem which is, in fact, ‘reasonably attributable’ to NGS. Congress mandated an extremely low triggering threshold, requiring the installment of stringent emission controls when an individual source ‘emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility’ in a class I Federal area.

*CAWCD*, 990 F.2d at 1541. The Court further agreed that EPA had broad latitude to determine whether visibility impairment is “reasonably attributable” to a given source, and referred to a report by the National Research Council noting that “Congress has not required ironclad scientific certainty establishing the precise relationship between a source's emissions and resulting visibility impairment.” *Id.*

### *B. The Department of the Interior Certification of Visibility Impairment*

As discussed above, a Federal Land Manager may at any time certify the existence of visibility impairment at a Class I Federal area. On November 14, 1985, the Department of the Interior certified to EPA the existence of visibility impairment in all Class I Federal areas within the Department's jurisdiction in the lower 48 states. On August 19, 1997, DOI sent a letter to EPA that reaffirmed the Department's 1985 certification of visibility impairment at the Grand Canyon National Park and stated DOI's belief that there is sufficient information available to support a "reasonable attribution" finding concerning the Mohave Generating Station (MGS). The DOI provided, as an attachment to its August 1997 letter, a document prepared by the National Park Service which summarizes published studies which DOI believes demonstrate that emissions from MGS contribute to visibility impairment at GCNP. The DOI requested that if EPA agreed with DOI's assessment of "reasonable attribution," EPA comply with its statutory obligation to determine the best available retrofit technology for MGS. The DOI recommended that in doing so, EPA discuss the environmental, energy, and economic factors relevant to MGS with key interested parties and emphasized that the interests of the Navajo and Hopi tribes be fairly represented and protected in the decision-making process. Should EPA find that the MGS is reasonably anticipated to cause or contribute to visibility impairment at the GCNP, it must consider several factors, including available technology, costs of compliance, energy impacts, and non-air quality environmental impacts in determining appropriate pollution control requirements.

### *C. Mohave Generating Station*

The Mohave Generating Station is a 1580 MW coal-fired power plant located in Laughlin, Nevada, approximately 75 miles southwest of the Grand Canyon National Park. It was built between 1967 and 1971. It currently emits over 40,000 tons of sulfur dioxide (SO<sub>2</sub>) per year. MGS is operated by Southern California Edison, the majority owner of the plant. The Los Angeles Department of Water and Power, Nevada Power Company, and Salt River Project also own interests in the plant. The coal for the plant comes from the Black Mesa Coal Mine on the Hopi and Navajo Reservations via a 273-mile coal slurry pipeline. The mine, operated by Peabody Western

Coal Company, is jointly owned by the Navajo Nation and the Hopi Tribe. Groundwater from an aquifer underlying the Navajo and Hopi reservations provides the water for the slurry pipeline.

## **II. Information Available for "Reasonable Attribution" Analysis**

### *A. Project MOHAVE*

As a result of EPA regulatory action on the Navajo Generating Station, described elsewhere in this notice, Congress directed EPA to conduct a tracer study to ascertain the extent to which the Mohave Generating Station contributes to visibility impairment at the Grand Canyon National Park. Congress created this directive through a budget line item in EPA's fiscal year 1991 budget. The tracer study was developed as a cooperative effort among EPA, the National Park Service, and the majority owners and operators of the MGS, Southern California Edison Company. This cooperative effort was named *Project Measurement Of Haze And Visibility Effects*, more commonly referred to as Project MOHAVE.

Project MOHAVE was an extensive monitoring, modeling, and data assessment project designed to estimate the contributions of the MGS to haze at the GCNP. The field study component of the project was conducted in 1992 and contained two intensive monitoring periods (approximately 30 days in the winter and approximately 50 days in the summer). Tracer materials were continuously released from the MGS stack during the two intensive periods to enable the tracking of emissions specifically from MGS. Tracer, ambient particulate composition and SO<sub>2</sub> concentrations were measured at about 30 locations in a four-state region. Two of these monitoring sites, Hopi Point near the main visitor center at the south rim of the canyon and Meadview near the far western end of the national park, were used as key receptor sites representative of GCNP.

The process of identifying and quantifying the impact of MGS's emissions on visibility in GCNP used two types of assessment methodologies. The first method, known as receptor modeling, is an empirical assessment of the extensive data collected during the study to estimate the presence of pollutants and tracer emitted from MGS, and to estimate increases in particulate sulfur and light scattering. The advantage of this method is that it provides for modeled predictions to be verified with measured data. The disadvantage of this method is that measurements can only be taken at

monitored locations during a limited time period. The second method relies on the application of mathematical models that attempt to estimate the transport and chemistry of MGS's emissions. The advantage of such models is that they can provide predictions at all locations for all times. The disadvantage of these models is that they can provide uncertain results due to the models' inability to accurately replicate the complex atmospheric chemical processes involved in the formation of visibility-impairing aerosols.

From the tracer data and the known ratio of tracer to SO<sub>2</sub> emission rates for MGS, we know that SO<sub>2</sub> emitted by MGS often reaches Meadview in sufficiently high concentrations to have the potential to cause impairment. The magnitude of the impairment that is attributable to MGS depends on how much of the SO<sub>2</sub> from the plant is converted to particulate sulfate. Sulfate particles in the atmosphere cause light to scatter which creates hazy conditions and poor visibility. Conversion of SO<sub>2</sub> to sulfate occurs by two different mechanisms: dry chemistry and wet chemistry. The rate of dry conversion is slow and greatest during the daylight hours. Wet chemistry is relatively fast but its occurrence is harder to predict since it requires interaction of the SO<sub>2</sub> emissions with cloud or fog droplets.

With one exception, the methods used in Project MOHAVE had to explicitly determine or use assumed rates of SO<sub>2</sub> to sulfate conversion for each time period during transport from MGS to GCNP. The models, therefore, relied in part on assumptions regarding how quickly emissions move through the atmosphere and how emissions interact with clouds, and yielded different results in terms of the amount of SO<sub>2</sub> converted to sulfate, which in turn produced different results regarding the magnitude of Mohave's impact on the Grand Canyon.

The conclusions from the various modelling methods were not always consistent as to which time periods during the study were most influenced by emissions from MGS. There is no consensus concerning which of the methods is more likely to be correct for any particular time period. Therefore, EPA intends to use these estimates to define a range for long-term and short-term impacts of the plant on visibility at GCNP.

EPA believes that the results of the Project MOHAVE study indicate that the Mohave Generating Station contributes to visibility impairment at the Grand Canyon National Park. The empirical data from the tracer study show that

emissions from MGS reach the Meadview site at the western end of GCNP in sufficient concentrations to, under certain meteorological conditions, convert to sulfate and cause visibility impairment. EPA notes that the study results show that the Mohave Generating Station is not the major cause of visibility impairment at the GCNP. However, the study indicates that because of the quantity of SO<sub>2</sub> emitted from the Mohave Generating Station and its proximity to the Grand Canyon, no other single point source is likely to have as great an impact on visibility in the Park.

The final Project MOHAVE report is available on the EPA, Region IX Web Page at <http://www.epa.gov/region09/air/mohave.html> and in Docket Number A2-99-01. Project MOHAVE operated under the joint technical and program management of the EPA and Southern California Edison Company in close partnership with the National Park Service. Numerous other organizations contributed to the operations and assessment work of the project. Since the end of the field study component of the project, data assessment and modeling efforts have been undertaken by the many participants and have lead to numerous papers and reports. By design these efforts have been the products of their respective authors and have not been endorsed as findings of Project MOHAVE.

#### *B. Other Available Information*

There are other studies pertaining to the Mohave Generating Station's impact on visibility at the Grand Canyon National Park. In its August 1997 letter to EPA reaffirming visibility impairment at the Grand Canyon and indicating that Mohave Generating Station is suspected of contributing to that impairment, DOI referenced several published papers on this topic as well as the 1993 summary of monitoring data from the IMPROVE network, the inter-agency visibility monitoring system. The papers referenced included "Comparison of Two Back Trajectory Techniques for Source Apportionment" by Gebhart, Malm, and Iyer, June 1993; "Receptor Model Applied to Patterns in Space (RMAPS) Part II—Apportionment of Airborne Particulate Sulfate from Project Mohave" by Henry, 1997; and "Examining the Relationship Among Atmospheric Aerosols and Light Scattering and Extinction in the Grand Canyon Area" by Malm, Molenaar, Eldred, and Sisler, August 1996. The general 1993 review of IMPROVE monitoring data and trends showed that sulfur-containing particles are an important component of the human-

caused visibility impairment at Grand Canyon National Park (20 to 30 percent on average). The August 1996 paper confirms this by finding that sulfur is responsible for approximately 30 percent of visibility impairment. Finally, the June 1993 paper, which analyzes data collected over a 13-year period, indicates that the majority of impairment at the Grand Canyon is due to transport from the southwest. These papers are available in Docket Number A2-99-01.

### **III. Request for Public Comment**

EPA is requesting public comment on two matters. The Agency is seeking information that it should consider in determining whether visibility impairment at the Grand Canyon National Park is "reasonably attributable" to emissions from the Mohave Generating Station. EPA is also seeking information that it should consider in conducting a "Best Available Retrofit Technology" analysis, should it find that impairment is "reasonably attributable" to the MGS.

Any determination that impairment at the GCNP is "reasonably attributable" to MGS, and any analysis of BART for the facility would occur through a future EPA rulemaking, including an opportunity for the public to comment on EPA's proposed actions.

#### *A. "Reasonable Attribution" Determination*

In determining whether to propose that visibility impairment at the Grand Canyon National Park is "reasonably attributable" to the Mohave Generating Station, EPA will consider all available information, including the results of the Project MOHAVE study and the papers referenced in the August 1997 letter from DOI to EPA. With today's notice, EPA is soliciting any additional information to be considered in assessing the MGS impact on visibility at GCNP. This may be additional analyses of Project MOHAVE data, or new information related to assessing impacts over other time periods.

#### *B. "Best Available Retrofit Technology" Analysis*

"Best Available Retrofit Technology" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established on a case-by-case basis, taking into consideration (1) the technology available, (2) costs of compliance, (3) the energy and non-air

quality environmental impacts of compliance, (4) any pollution control equipment in use or in existence at the source, (5) the remaining useful life of the source, and (6) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. 40 CFR 51.301(c) and 52.26(b)(2), and CAA section 169A(g)(2), 42 U.S.C. 7491(g)(2). Pursuant to section 169A(b) of the Act, 42 U.S.C. 7491(b), and 40 CFR 51.302(c)(4)(iii), the emission limitation representing BART for fossil fuel-fired power plants with a generating capacity in excess of 750 megawatts (MW) must be determined pursuant to guidelines set forth by the Administrator of EPA. The procedures for conducting a BART analysis are set forth in "Guidelines for Determining Best Available Retrofit Technology Analysis for Coal Fired Power Plants and Other Stationary Facilities" ("BART Guidance"), EPA publication EPA-450-3-8-009b.

With today's notice, EPA is soliciting information to be considered in establishing BART for MGS, should EPA determine that visibility impairment at the GCNP is "reasonably attributable" to the facility. Information that EPA is seeking includes analyses of information related to the six factors listed in the paragraph above.

### **IV. Activities Related to the Mohave Generating Station and Visibility at the Grand Canyon National Park**

#### *A. Grand Canyon Visibility Transport Commission*

Congress directed EPA to establish the Grand Canyon Visibility Transport Commission to assess information pertaining to adverse impacts on visibility at the GCNP and to make recommendations to EPA on measures that should be taken to remedy such adverse impacts. The Commission, which was established in 1991, conducted an extensive review of the scientific, technical, and other information with assistance from a range of governmental, business, tribal, and environmental interests. On June 10, 1996, the Commission issued a report to EPA containing its recommendations for protecting and improving visibility in Class I areas of the Colorado Plateau, including the GCNP. The recommendations covered a wide range of control strategy approaches, planning and tracking activities, and technical findings. Regarding stationary sources, the Commission recommended that EPA establish SO<sub>2</sub> emissions targets for the year 2000 and the year 2040, with interim targets to ensure steady and

continuing emission reductions. The Commission also recommended development of market-based regulatory programs if emission targets are not met. While the Commission report did not make any specific recommendation regarding emission reductions from any specific stationary source, such as the Mohave Generating Station, it did strongly encourage EPA to complete the Project MOHAVE source attribution study and to take action consistent with the results of that study within twelve months of its completion.

#### *B. Public Meeting*

The EPA has been working in close partnership with the Secretary's Office of the Department of the Interior and the National Park Service Air Resources Division to address issues concerning the Mohave Generating Station. During the past year and a half, EPA and DOI have met with various parties with an interest in the future of the Mohave Generating Station. On January 8 and 9, 1998, EPA and DOI held a public meeting in Las Vegas, Nevada to present information and seek input on the issues, interests, and concerns related to the Mohave Generating Station and visibility impairment at the Grand Canyon National Park. Several informational panels outlined the issues, provided background on visibility science and EPA's visibility regulations, discussed issues associated with utility restructuring that affect the plant, and outlined options for reducing emissions at the plant.

Approximately 90 people representing a variety of affected groups attended the meeting. Representatives from local governments and businesses stressed the importance of MGS to the local economy and characterized MGS as a good corporate citizen that supported schools and civic projects. One private citizen expressed concern about the health effects of emissions from the plant, noting that a plume of smoke was always visible from the plant. Speakers for environmental groups stated that MGS is a significant contributor to haze at the Grand Canyon National Park, emits pollutants at a higher level than other power plants, and is at a competitive advantage to other plants that have installed pollution controls. The environmental groups believe that there is enough information available currently to show that MGS is affecting visibility at the Grand Canyon National Park and that EPA should act immediately to require pollution controls. The Navajo Nation expressed concerns about air and water quality but highlighted the importance of MGS to the Navajo economy, which

depends significantly on revenues from coal sales to the plant. Southern California Edison stated that it wants to protect the environment while maintaining the economic viability of the plant. SCE stated that at the current market price for electricity, the cost of installing control equipment at the plant would make the plant unprofitable. Union representatives, MGS employees, and companies that provide raw materials to MGS highlighted their reliance on MGS and emphasized that continued operation of the plant is important to state, local, and tribal economies and living standards.

In addition to the comments made at the public meeting in Las Vegas, EPA has received hundreds of letters from people expressing concern about visibility impairment at the Grand Canyon and urging EPA to require installation of pollution controls at the Mohave Generating Station.

#### *C. Grand Canyon Trust/Sierra Club Lawsuit*

On February 19, 1998, Grand Canyon Trust (GCT) filed a citizen suit in the federal district court for the District of Nevada against the owners of the Mohave Generating Station. GCT alleged that the defendant had violated several SIP provisions that apply to the Mohave Generating Station. GCT included allegations that the Mohave Generating Station had exceeded emission limits in the Nevada and Clark County SIPs for opacity and sulfur dioxide, and had failed to conduct necessary reporting. Sierra Club and the National Parks and Conservation Association subsequently joined GCT as plaintiffs in the citizen suit. The defendants have filed a motion to dismiss the suit and a motion for partial summary judgment. The plaintiffs have filed an opposition to the motion to dismiss and a motion for partial summary judgment. These motions are currently pending before the court.

#### *D. Environmental Defense Fund Letter*

The Environmental Defense Fund (EDF) submitted a letter to the Regional Administrator of EPA Region IX in November 1998 noting its concern over EPA's failure to conduct a review of the visibility protection plan for the state of Nevada. As part of the long term strategy to address visibility protection, EPA is required to conduct a review of the visibility protection plan every three years to determine whether the plan is sufficient or if additional measures are necessary for visibility protection. 40 CFR 52.29(c)(4). (Because the state of Nevada does not have an approved SIP for visibility, EPA is required to assume

responsibility for visibility protection until such time as the State submits, and EPA approves, a SIP that adequately provides for visibility protection.) Pursuant to 40 CFR 52.29, EPA must include in its triennial report an assessment of the progress made in remedying existing impairment, changes in visibility since the last report, whether additional measures are necessary to assure reasonable progress toward the national visibility goal and any progress achieved in implementing BART. EDF notes that EPA has not updated the visibility protection plan or conducted any of the required reviews, even though the Department of the Interior has notified EPA of visibility impairment at the Grand Canyon National Park and has submitted information indicating that such impairment is attributable to emissions from the Mohave Generating Station. EDF further refers to studies that have been conducted (including Project MOHAVE) which EDF believes indicate that emissions from the Mohave Generating Station contribute to visibility impairment. On April 20, 1999, EDF sent EPA notice of its intent to sue the Agency, pursuant to section 304(b)(1) of the Act, 42 U.S.C. 7604(b)(1), and 40 CFR part 54. EDF's notice of intent to sue made the same claims as contained in its November 1998 letter to EPA.

#### *E. Southern California Edison Proposal*

On December 11, 1998, Southern California Edison and the other owners of the Mohave Generating Station announced that by 2008, they would either install emission control equipment at the plant or shut the plant down. The control equipment would include sulfur-dioxide scrubbers and bag houses, devices designed to reduce particulate matter emissions. The MGS owners stated that installations could begin by 2005 and that work would be completed no later than 2008. The owners noted that the plant must be able to operate economically with additional emission control devices; otherwise the plant would not operate beyond 2008. The announcement indicated that the MGS owners would participate in collaborative discussions with interest groups, including the Hopi tribe, the Navajo Nation, environmental organizations, communities near the plant, plant employees, and state and federal agencies to "speed resolution of key environmental issues regarding the Mohave plant."

## V. Administrative Requirements

### A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Due to potential policy issues this action is considered a significant regulatory action and therefore was reviewed by OMB. Changes made in response to OMB suggestions or recommendations have been documented in the public record.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any rule on small entities unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 604 and 605(b). Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This advance notice of proposed rulemaking will not have a significant impact on a substantial number of small entities because it will not create any new requirements for any entity. The notice merely presents background information and requests input from the public. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, this advance notice of proposed rulemaking does not require a regulatory flexibility analysis.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Sulfur oxides.

Dated: June 11, 1999.

**Carol M. Browner,**

*Administrator.*

[FR Doc. 99-15435 Filed 6-16-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA121-4088b; FRL-6361-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 1990 NOx Base Year Emission Inventory for the Philadelphia Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing approval of a State Implementation Plan (SIP) revision request that the Commonwealth of Pennsylvania submitted on July 31, 1998. The revision concerns the 1990 oxides of nitrogen (NOx) base year inventory for the Pennsylvania portion of the Philadelphia severe ozone nonattainment area. EPA is proposing approval of the Philadelphia area 1990 NOx base year inventory as a revision to Pennsylvania's SIP in accordance with the requirements of the Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because we view this as a noncontroversial submittal and anticipates no adverse comments. We set out our rationale for our approval in the direct final rule. If we do not receive adverse comments, we will not take further action on this proposed rule. However, if we receive adverse comments, we will withdraw the direct final rule, and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. **DATES:** Comments must be received in writing by July 19, 1999.

**ADDRESSES:** You should mail written comments to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania

19103. You can inspect copies of the documents relevant to this action during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

#### FOR FURTHER INFORMATION CONTACT:

Cristina Fernandez, (215) 814-2178, at the EPA Region III address above, or via e-mail at fernandez.cristina@epa.gov.

**SUPPLEMENTARY INFORMATION:** For more information, please see the direct final rule with the same title, pertaining to Pennsylvania's 1990 NOx base year inventory for the Philadelphia area, located in the "Rules and Regulations" section of this **Federal Register**.

Dated: June 2, 1999.

**Thomas J. Maslany,**

*Acting Regional Administrator, Region III.*

[FR Doc. 99-15268 Filed 6-16-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[IA 070-1070b; FRL-6359-3]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Iowa

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the state of Iowa's section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators. The plan was submitted to fulfill the requirements of sections 111 and 129 of the Clean Air Act. The state plan establishes emission limits and controls for sources constructed on or before June 20, 1996.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this rule, no further activity is contemplated, and the direct final rule will become effective. If EPA receives