

ATTACHMENT 2: COMMENT RESPONSE for AQR 12.14

Comments Received During the 30 day Public Notice Period (March 27 to April 26, 2022) for AQR Section 12.14

Comments received from Lhoist North America of Arizona, Inc. – Apex Plant

Lhoist Comment 1: Section 12.14.1 – “The provisions of this regulation apply to any stationary source in operation or in existence that may reasonably be anticipated to cause or contribute to visibility impairment in any Federal Class I area identified in 40 CFR Part 81, Subpart D, and that is subject to a requirement under the Nevada Regional Haze State Implementation Plan.”

The rationale for this change is to clarify that only sources subject to a requirement under the Nevada Regional Haze SIP are subject to this new regulation.

Air Quality Response: Clark County (CC) agrees that the added language enhances clarity and has included it in the proposed revision.

The provisions of this regulation apply to any stationary source in operation or existence that may reasonably be anticipated to cause or contribute to visibility impairment in any federal Class I area identified in 40 CFR § 81, Subpart D, and that is subject to a requirement under the Nevada Regional Haze State Implementation Plan (SIP).

Lhoist Comment 2: Section 12.14.3(a) – “The owner or operator of an existing stationary source, or group of sources, shall implement emission reduction measures to reduce emissions of air pollutants that contribute to visibility impairment ~~[as needed to make reasonable progress, as determined in accordance with 40 CFR § 51.308]~~, when and as required in a State Implementation Plan revision ~~[developed]~~approved by the Nevada Division of Environmental Protection.”

This revision clarifies that currently NDEP is authorized to make reasonable progress determinations. In addition, only the approved version of the Regional Haze SIP should be enforced. The draft plans and revisions developed throughout the rulemaking process should not be considered as enforceable.

Air Quality Response: The Clean Air Act (CAA) requires the Regional Haze SIP to include terms and conditions described in Section 12.14.3(a). This subsection requires the owner or operator to implement emission reductions to demonstrate compliance with these CAA requirements and their intended purpose. CC has not implemented the suggested changes to Section 12.14.3(a) because the CAA requires that the proposed Regional Haze SIP rely upon permanent, enforceable conditions in the issued permit prior to submission of the SIP to EPA. Other changes were added for clarity.

“The owner or operator of an existing stationary source, ~~(or group of sources)~~ shall implement emission reduction measures to reduce emissions of air pollutants that contribute to visibility impairment as needed to make reasonable progress, as determined

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in accordance with 40 CFR § 51.308, when required in a State Implementation Plan revision developed by the Nevada Division of Environmental Protection: the Nevada Regional Haze SIP revision." (Section 12.14.3(a))

Lhoist Comment 3: Section 12.14.3(b) – “The measures shall be implemented within a reasonable time frame, as defined by and after the U.S. Environmental Protection Agency's approval of Nevada's State Implementation Plan revision.”

This suggestion clarifies that the timeline for implementation is defined by EPA approval and the source specific language included in the Regional Haze SIP. No other timeline for implementation is authorized.

Air Quality Response: CC agrees and has revised Section 12.14.3(b) as follows.

The measures shall be implemented within a reasonable time frame after the U.S. Environmental Protection Agency's approval of Nevada's State Implementation Plan Regional Haze SIP revision." (Section 12.14.3(b))

Lhoist Comment 4: Section 12.14.3(c) – “The measures and compliance deadline shall be determined on a source-by-source basis and shall be defined[included] in an approved Nevada's State Implementation Plan[revision]. All required measures shall be properly operated and maintained.”

The added language clarifies that the measures and compliance deadline can only be determined by an approved SIP.

Air Quality Response: CC agrees that “defined” enhances clarity and has included it in the proposed revision. The other suggested changes were not made because the CAA requires the proposed Regional Haze SIP to rely upon permanent, enforceable conditions in the issued permit prior to submission of the SIP to EPA. Other changes were added for clarity.

“The measures and compliance deadline shall be determined on a source-by-source basis, and shall be defined included in Nevada's State Implementation Plan Regional Haze SIP revision. All required measures shall be properly operated and maintained.” (Section 12.14.3(c))

Lhoist Comment 5: Section 12.14.3(d) – “All emission reductions and required control devices and methodologies included in the approved Regional Haze SIP shall be made permanent and enforceable in the terms and conditions in permits issued in accordance with AQRs 12.1, 12.4, and 12.5.”

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In terms of added regional haze requirements, only those emission reductions, control devices, and methodologies defined in the approved Regional Haze SIP shall be made permanent and enforceable.

Air Quality Response: ~~Lhoist desires to protect itself from the need to implement these requirement from the SIP until the SIP is approved by EPA. However~~ The CAA requires that the proposed Regional Haze SIP rely upon permanent, enforceable conditions in the issued permit prior to submission of the SIP to EPA. For these reasons, CC has not included these suggested changes to Section 12.14.3(d). CC did include additional language for clarity and to identify that general permits issued in accordance with Section 12.11 may also be included.

"All emission reductions and required control devices and methodologies included in the approved Nevada State Implementation Plan~~Regional Haze SIP~~ shall be made permanent and enforceable in the terms and conditions in permits issued in accordance with AQRs Sections 12.1, 12.4, ~~and~~ 12.5, and 12.11." (Section 12.14.3(d))

Lhoist Comment 6: Section 12.14.5(a) – “The owner or operator of any existing stationary source, or group of sources required to install emission reduction measures to meet the reasonable progress goals, shall conduct monitoring, recordkeeping, and reporting according to the approved Nevada Regional Haze SIP, sufficient to show compliance or noncompliance.

Only the monitoring, recordkeeping, and reporting requirements defined in the Nevada Regional Haze SIP are authorized to be implemented.

Air Quality Response: CC agrees that the added language enhances clarity. CC has added the language at the end of the sentence.

“The owner or operator of any existing stationary source, ~~(or any group of sources)~~ required to install emission reduction measures to meet the reasonable progress goals, shall conduct monitoring, recordkeeping, and reporting sufficient to show compliance or noncompliance with the Nevada Regional Haze SIP. (Section 12.14.4(a))

Lhoist Comment 7: Section 12.14.5(b) – “Particulate monitoring shall be in accordance with the requirements of AQR 12.10.”

Other than the reference to opacity, LNA has not found a reference to particulate monitoring in AQR 12.10. The Reasonable Progress Control Determination (Attachment A) for the Facility, as developed by NDEP, does not include emission reduction measures for particulate; therefore, it is LNA’s belief that this condition would not apply.

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Air Quality Response: CC has included particulate monitoring here because it is routinely identified in a regional haze SIP. In response to Lhoist's comments, CC removed the reference to Section 12.10 and replaced it with "of the Nevada Regional Haze SIP."

"Particulate monitoring shall ~~be in accordance~~ comply with the requirements of the Nevada Regional Haze SIP." (Section 12.14.4(b))

Lhoist Comment 8: Section 12.14.5(c) – "Recordkeeping and reporting shall comply with the requirements of AQR 12.10."

LNA worked with NDEP to specifically define the monitoring, recordkeeping, and reporting requirements as identified in the Reasonable Progress Control Determination (Attachment A) for the Facility. These requirements, as currently written, do not require the use of Continuous Emission Monitors (CEMs) to track and monitor NOx emission rates for Kilns 1, 2, or 3. Therefore, neither 12.14.5(c), nor AQR 12.10 would be applicable to these sources. DAQ should consider revising this language to comply with AQR 12.10 only when the Nevada Regional Haze SIP requires the use of CEMS.

Air Quality Response: CC agrees and has revised the language by removing the reference to Section 12.10 and adding "the Nevada Regional Haze SIP and the applicable requirements of Section 12.9."

"Recordkeeping and reporting shall comply with the requirements of AQR 12.10. ~~the Nevada Regional Haze SIP and the applicable requirements of Section 12.9.~~" (Section 12.14.4(c))

Lhoist Comment 9: Section 12.14.5(d) – "Monitoring, recordkeeping and reporting for other source units shall comply with the requirements of AQR 12.10."

LNA is unsure what is meant by "other source units." Only the sources identified in the Nevada Regional Haze SIP are subject to the specific monitoring, recordkeeping, and reporting requirements as approved in the SIP. LNA does not believe that these provisions would be applicable to "other sources" which are not defined in the SIP.

Air Quality Response: CC agrees and has revised Section 12.14.5(d) as follows:

~~"All m~~Monitoring, recordkeeping, and reporting ~~for other source units shall comply with the requirements of AQR 12.10. requirements shall be made enforceable by the terms and conditions of permits issued in accordance with Sections 12.1, 12.4, 12.5, and 12.11."~~ (Section 12.14.4(d))
