Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.551 to read as follows:

§ 117.551 Chester River.

The draw of the S213 Bridge, mile 26.8, at Chestertown, shall open on signal if at least six hours notice is given.

Dated: February 2, 2010.

Wayne E. Justice,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2010–4648 Filed 3–4–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R09–OAR–2006–0185; FRL–9122–3]

RIN 2009–AA00

Source-Specific Federal Implementation Plan for Navajo Generating Station; Navajo Nation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating a source-specific Federal Implementation Plan (FIP) to regulate emissions from the Navajo Generating Station (NGS), a coal-fired power plant located on the Navajo Indian Reservation near Page, Arizona. EPA proposed the NGS FIP on September 12, 2006, to establish federally enforceable limitations for TSP, SO_2, and opacity, and control measures for dust. The limits had previously been established in the Arizona SIP. EPA promulgated the Tribal Authority Rule in 1998, clarifying that state air quality regulations generally did not apply to facilities on Indian reservations and that EPA should fill the regulatory gap as necessary or appropriate. This action fills the regulatory gap for the NGS facility.

DATES: *Effective Date:* This rule is effective on April 5, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. R09–OAR–2006–0185. All documents in the docket are listed in the Federal eRulemaking portal index at *http://www.regulations.gov* and are available either electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Sarvy Mahdavi, EPA Region IX, (415) 972–3173, *mahdavi.sarvy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Background of the Final Rule

NGS is a 2,250 megawatt coal-fired power plant located on the Navajo Indian Reservation near Page, Arizona. Salt River Project ("SRP") is the operating agent for NGS, which is jointly owned by SRP, the United States Bureau of Reclamation, the Los Angeles Department of Water and Power, the Arizona Public Service, the Nevada Power Company, and the Tucson Electric Power Company. Since 1974, NGS has been operating on real property held in trust by the federal government for the Navajo Nation. The facility consists of three 750 MW coal-fired electric utility steam generating units.

In 1999, EPA initially proposed to promulgate a FIP to regulate emissions from NGS. *See* 64 FR 48725 (September 8, 1999) (1999 proposed FIP). At that time, NGS was meeting certain emissions limits in the Arizona State Implementation Plan (SIP). However, because the Arizona SIP is not approved to apply on the Navajo Indian Reservation, and because the Navajo Nation did not have a federally applicable tribal implementation plan (TIP), EPA proposed to promulgate a FIP to remedy the existing regulatory gap. The 1999 proposed FIP, therefore, would have, in essence, federalized the requirements contained in the Arizona SIP which NGS had historically followed. In explaining the basis for its proposed action, EPA stated that given the magnitude of emissions from the

plant, the Agency believed the proposed FIP provisions were necessary and appropriate to ensure the protection of air quality on the Reservation. *See* 64 FR at 48726.

When EPA proposed the 1999 FIP, NGS was also subject to emissions limits for sulfur dioxide (SO_2) that EPA had promulgated in 1991 when we revised a visibility FIP for Arizona to include requirements for NGS. *See* 56 FR 50172 (Oct. 3, 1991), codified at 40 CFR 52.145(d). The requirements of EPA's 1991 revised visibility FIP are not being amended or changed by today's action, but 40 CFR 52.145(d) is being recodified to 40 CFR part 49.

EPA did not finalize the 1999 proposed FIP. Instead, EPA proposed a new FIP in September, 2006. *See* 71 FR 53639 (September 12, 2006) (2006 proposed FIP).

In the 2006 proposed FIP, EPA again explained that to remedy the regulatory gap that exists with regard to NGS because the Arizona SIP does not apply to sources located on the Navajo Indian Reservation, the Agency was proposing to issue a source-specific FIP establishing federally enforceable emission limits for SO_2, particulate matter (PM), and opacity, and control measures for dust. The proposed limits were similar to those in the Arizona SIP which NGS has historically followed, but EPA proposed to include some additional requirements for reducing opacity and fugitive dust emissions from coal handling operations. Specifically, the 2006 proposed FIP lowered the opacity limit from 40% to 20% and included requirements to control emissions associated with coal and ash handling and storage.

EPA's objective at this time in promulgating this final FIP for NGS is to remedy the existing regulatory gap described in our 1999 and 2006 proposals. Today's action will make federally enforceable the emission limitations which NGS has historically followed and will ensure that NGS complies with the opacity limit of 20% and control measures for dust from coal and ash handling and storage operations. This final action will help to advance the goals of ensuring continued maintenance of the national ambient air quality standards and protecting visibility. Given the importance of these goals and the magnitude of emissions from the plant, EPA believes that making these limits federally enforceable is appropriate to protect air quality on the Reservation and is accordingly exercising its discretionary authority under sections 301(a) and 301(d)(4) of the Clean Air Act ("CAA") and 40 CFR 49.11(a) to promulgate a FIP containing provisions to achieve these ends.

As explained in our proposal in this action, the SO_2 emissions limit in today's final rule is a short-term emissions limit, which will be enforceable in addition to the rolling 365 day average emission limit in the 1991 visibility FIP. For PM emissions, EPA is finalizing its proposal to federalize the emissions limits which NGS historically followed from the Arizona SIP. The Arizona SIP did not contain any nitrogen oxides (NO_X) emissions limits for NGS, and today's final rule does not impose any limits on NO_X. However, we note that NGS is subject to the Federal Acid Rain requirements under title IV of the Clean Air Act. NGS elected to comply early as a Phase I NO_X facility which means NGS currently has a NO_X limit of 0.40 lbs/MMbtu, per unit, on an annual basis. EPA will also address the emissions of NOx and PM separately through EPA's Regional Haze rule (codified at 40 CFR 51.308) to require best available retrofit technology for these pollutants, as discussed in more detail in our response to comments.

A. Summary of Final FIP Provisions

1. EPA is finalizing its proposal to limit particulate matter to 0.060 pounds per million british thermal units (lbs/MMbtu), and specifying at least three 60 minute sampling runs for each stack. Additionally, this final rule changes the averaging time for the particulate matter limit from the proposed 6 hour average to a three hour average based on three runs, each lasting approximately one hour. The particulate standard will be measured on a plant-wide basis and is also the way in which the State of Arizona has historically determined compliance at NGS.

2. EPA is finalizing its proposal that opacity from each unit is limited to 20% averaged over any normal 6 minute period, excluding condensed water vapour, and 40% opacity, averaged over 6 minutes, during absorber upset transition periods. The final opacity standard excludes uncombined water droplets. NGS has opacity monitors on each of its stacks; water droplets, which will be present in all stacks because of the SO_2 scrubbers, cause inaccurate excess emission readings on the opacity monitors. Therefore, in the final rule excess opacity due to uncombined water droplets in the stack does not constitute an exceedance, but it will be reported on the quarterly excess emissions reports.

3. EPA is finalizing its proposal that SO_2 emissions are limited to 1 lb/MMbtu averaged over a three-hour period, on a plant-wide basis. The emissions limit for SO_2 was previously established in the Arizona SIP. The method of compliance determination has been changed from the proposal which based compliance on the sulfur content of coal. In the final rule, compliance is based on continuous emission monitoring (CEM). This change is being made because the Federal acid rain regulations require CEM monitoring, which is generally recognized as being more accurate and precise than monitoring the sulfur content of coal. NGS previously complied with the limit of 1 lb/MMbtu on a per-unit basis by using very low sulfur coal. Because NGS has now installed scrubbers to comply with the 1991 visibility FIP, however, NGS will be able to comply with its short-term limits by removing sulfur from the exhaust stream. This will allow NGS to purchase slightly higher sulfur coal; additionally, the plant-wide average allows one scrubber to be down for periodic maintenance (lasting usually 30 to 40 days) without requiring the purchase of specific low sulfur coal for use during the maintenance. In the final rule, as in the proposal, the actual SO_2 emissions from NGS will remain 90% lower on an annual basis than they were before the scrubbers were installed to comply with the 1991 visibility FIP. To ensure that NGS continues to meet this limit, this rule will finalize the proposal to limit SO_2 emissions to 1 lb/MMbtu on a 3 hour average limit. With the scrubbers in place, the plant-wide hourly emissions (tons per hour) will always be less than under the prior state limit, since at least one unit with its scrubber operating and removing SO_2 will be needed to meet the plant-wide SO_2 three hour limit.

4. EPA is finalizing its proposal that opacity is limited to 20 percent averaged over a six minute period for both the boiler stacks and for dust from emission associated with coal transfer and storage and other dust-generating activities. NGS is required to submit a description of the dust control measures.

II. Analysis of Major Issues Raised by Commenters

EPA held a public informational workshop and hearing on the proposed FIP for NGS at the same time as the workshop and hearing on a proposed FIP for the Four Corners Power Plant. The joint public hearing was held in Farmington, New Mexico, on October 5, 2006. Although EPA received only one comment letter directed specifically at the proposed FIP for NGS, we received 43 comments on the proposed FIP for the Four Corners Power Plant ("FCPP

FIP"), many of which either explicitly or implicitly addressed both actions. For example, several comments objected in general terms to allowing operation of coal fired power plants. We responded to comments on the FCPP FIP in a **Federal Register** Notice on May 7, 2007 (72 FR 25698). Some of our responses to comments in this action are identical or very similar to the response to comments for the FCPP FIP because the comments were identical or similar. Commenters raised concerns which focused on general issues about air quality and health in the area, and more specific concerns about the emission limits and control requirements in the proposed FIP. The one comment letter received relating exclusively to NGS was from SRP and raised specific technical issues. Significant comments, including SRP's comments, are summarized below.

Our complete Response to Comments is contained in a separate document in the docket for this rulemaking. A summary of the significant comments and responses is provided below.

A. Concerns About the Scope of the FIP

Comment: The majority of commenters objecting to both the FCPP and NGS FIPs indicated that EPA should go beyond merely federalizing the emission limits which NGS has historically followed. Other commenters urged EPA to take regulatory action to regulate or to further reduce emissions of SO_2, NO_X, PM, mercury, and "toxic emissions." Commenters raised a variety of general concerns regarding impacts associated with coal fired power plants such as NGS, including public health and/or environmental impacts of fugitive dust from coal mining, mercury (Hg) and carbon dioxide (CO_2, greenhouse gases). Another commenter argued that in issuing a FIP for NGS, EPA must comply not only with all of the requirements of section 301 of the CAA but also ensure through the FIP process that NGS is in compliance with all applicable federal and state ambient standards by complying with the requirements of section 110 of the CAA addressing State implementation plans.

Response: As stated above, EPA's authority to promulgate this source-specific FIP is based on CAA sections 301(a) and (d)(4) and the regulations implementing these provisions at 40 CFR Part 49. Today's action is not based on, nor is it subject to the requirements of, CAA section 110. CAA section 301(d)(4) provides EPA with broad discretion to promulgate regulations directly for sources located in Indian country. The Tribal Air Rule provides EPA with "discretion to determine what rulemaking is necessary or appropriate to protect air quality and requires the EPA to promulgate such rulemaking." *Arizona Public Service Company* v. *USEPA,* 562 F.3d 1116, 1125 (10th Cir. 2009).

EPA is exercising its discretion to promulgate emission limitations for NGS to close the regulatory gap that exists with respect to NGS. As explained above, at present there is no approved implementation plan covering NGS because the Arizona SIP does not apply to sources located on the Navajo Indian Reservation and the Navajo Nation has not promulgated an applicable Tribal Implementation Plan. EPA's exercise of authority in issuing this FIP is based on the Agency's conclusion that it is appropriate to protect air quality on the Reservation by remedying the lack of federally enforceable limits applicable to NGS. As such, our action is largely limited to making enforceable those emissions limits which NGS has historically followed and re-codifying the limitations applicable to NGS in the visibility FIP for Arizona. We have also finalized our proposal to lower the opacity limit and to add certain material handling measures to provide additional benefits to air quality and visibility, and to conform to revisions that have been approved into the Arizona SIP.

Today's action is an important step in protecting air quality on the Reservation. As noted in the proposal, this action will contribute towards ensuring continued maintenance of the NAAQS and towards protecting visibility. EPA acknowledges that additional regulatory actions by EPA may be necessary or appropriate in the future to further protect air quality on the Navajo Reservation, depending on, among other things, conditions on the Reservation and the decisions of the Navajo Nation to implement air quality programs. Our detailed response to comments on mercury, CO_2 and other emissions is discussed further below and in our Response to Comments document.

B. Comments on Emissions Limits

Comment: Several commenters urged EPA to take regulatory action in addition to the proposed FIP to require reductions of NO_X and PM emissions from NGS. In particular, several commenters urged EPA to undertake a determination of best available retrofit technology (BART) for NGS's NO_X emissions. *See* 40 U.S.C. 7491(b)(2)(A). One commenter noted that NGS is the 8th largest NO_X emitter in the U.S. and that the FIP was not addressing NO_X or the environmental impact from the NO_X emissions. The commenter also requested an explanation of when and at what levels BART limits would be applied to PM, mercury, VOC and other pollutants.

Response: EPA agrees that it may be necessary or appropriate in a future rulemaking to require NGS to reduce its NO_X or PM emissions below those levels which were historically contained in the Arizona SIP (and are now contained in this FIP) or which are necessary to comply with the Acid Rain program. In the 1991 revision of the visibility FIP that created SO_2 emission limits for NGS, EPA concluded that those limits achieved greater reasonable progress than would BART, but did not address emissions of NO_X or PM from NGS. Today's rule does not address the requirements of EPA's nationally applicable Regional Haze rule, codified at 40 CFR 51.308, which contains specific implementation plan requirements regarding BART determinations.[1]

EPA recognizes, however, the importance of addressing emissions of NO_X and PM from NGS for purposes of addressing NGS's contribution to visibility impairment. EPA has requested and SRP has submitted an analysis of the NO_X and PM control options to address BART. This document and supplemental submittals are available on the docket EPA has prepared for the BART rulemaking available at: *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=EPA-R09-OAR-2008-0454.*

EPA is reviewing the information provided, and consulting with the Federal Land Manager(s), States with Class I areas impacted by NGS, and tribes to determine the appropriate BART limits for NGS. On August 28, 2009, EPA issued an Advance Notice of Proposed Rulemaking ("ANPR") concerning the anticipated visibility improvements and the cost effectiveness for different levels of air pollution controls as BART for NGS and for another coal-fired power plant located on the Navajo Nation, Four Corners Power Plant ("FCPP"). EPA issued the ANPR for the specific purpose of collecting additional information that EPA may consider in modeling the degree of anticipated visibility

[1] Such implementation plans were not required from the States until December 17, 2007. Tribes are not subject to any mandatory deadlines to submit regional haze implementation plans. See 40 CFR 49.4; 64 FR at 35758 ("For example, unlike States, tribes are not required by the TAR to adopt and implement CAA plans or programs, thus tribes are not subject to mandatory deadlines for submittal of implementation plans."); see also *Arizona Public Service Company* v. *USEPA,* 562 F.3d at 1119).

improvements in the Class I areas surrounding the two power plants and for determining whether BART controls are cost effective at this time. EPA also requested any additional information that commenters believe the agency should consider in promulgating a FIP establishing BART for the two power plants.

After considering the information received in response to the ANPR and other relevant information, EPA intends to publish separate FIPs proposing EPA's BART determinations for FCPP and NGS under the Regional Haze rules. After evaluating all comments on the proposed BART determination for NGS, EPA will take final action regarding the BART requirements at NGS.

Although it is unlikely that VOC emitted from NGS will be regulated for visibility protection under the Regional Haze rules, comments concerning the contribution of VOCs to visibility impairment are more appropriately considered during the regional haze rulemaking discussed above. Historically, VOC emissions from coal-fired electric generating units (EGUs) have not been considered a significant contributor to visibility impairment, and EPA knows of no states in the West that are considering setting limits on coal-fired EGU VOC emissions for regional haze. In the West, the quantity of emissions of VOC from EGUs is relatively insignificant compared to the quantity of VOC emissions from biogenic sources, fires, or mobile sources.

EPA is not considering setting a BART limit for mercury as there is no evidence that mercury contributes to visibility impairment. On October 28, 2009, pursuant to CAA section 113(g), EPA published in the **Federal Register** for comment a proposed Consent Decree that would require the Agency to propose CAA section 112(d) standards to control hazardous air pollutants, including mercury, from coal- and oil-fired electric utility steam generating units by March 16, 2011, and issue final section 112(d) standards by November 16, 2011. EPA will request public comment on that rulemaking and will consider any significant comments on this issue that are raised during our section 112(d) rulemaking.

Comment: SRP requested that the particulate matter limit in the proposed rule be revised for better clarity. The requested changes included that compliance would be determined from at least three test runs over a 60 minute duration at each stack.

Response: EPA agrees with SRP's proposed changes to the particulate matter limit and has made the appropriate revisions in the final rule which include specifying at least three 60 minute sampling runs for each stack. This also changes the averaging time for the particulate matter limit from the proposed 6 hour average to a three hour average based on three runs lasting approximately one hour each.

Comment: SRP requested the end of the startup limit for NGS be increased from 300 to 400 MW to maintain consistency with the end of the startup limit for FCPP.

Response: Other than noting that EPA allowed a startup termination limit of 400 MW for FCPP, SRP has not provided an explanation as to why a startup termination limit of 400 MW is more appropriate for NGS than 300 MW. The critical factor in the startup is that the hot side ESP reaches 400° so that it may be expected to operate properly. This temperature can be reached when the NGS units reach 300 MW. To allow the startup to extend beyond this operating level simply because EPA agreed to it for FCPP, which has completely different control technology with different operational limitations, is not reasonable. Given that the control technology at NGS is different from the control technology at FCPP, and that NGS provided no technical justification for making the change from 300 MW to 400 MW, EPA maintains the 300 MW startup termination limit for NGS along with the proposed 400° precipitator temperature.

Comment: SRP requested a change to the shutdown definition, because they claimed that the first sentence, which referred to cessation of coal burning, was incorrect.

Response: EPA agrees and dropped the first sentence of the definition referring to cessation of coal burning, since coal may still be combusted when a unit load reaches 300 MW or less and the intention is to remove the unit from service.

Comment: SRP requested that NGS be exempt from opacity monitoring requirements, consistent with 40 CFR 75.14(b) which exempts units equipped with a wet flue pollution control system for SO_2 or particulates from the monitoring requirements of part 75, if the source "can demonstrate that condensed water is present in the exhaust flue gas stream and would impede the accuracy of opacity measurements."

Response: EPA agrees with SRP's comments that when the stack is saturated and has uncombined water droplets, the Continuous Opacity Monitoring Systems (COMs) cannot correctly read the opacity due to particulate matter and has updated the final rule to reflect this change; however, NGS will continue to have a requirement to operate COMs on each stack since the COMs do operate properly during start-up and at other times when the SO_2 scrubbers are bypassed for maintenance purposes. SRP has operated the monitors for a number of years and EPA does not find that an exemption allowed in part 75 is appropriate in this rule.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

This action is not "significant regulatory action" under the terms of "Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO. This action will finalize a source-specific FIP for the Navajo Generating Station on the Navajo Nation.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Under the Paperwork Reduction Act, a "collection of information" is defined as a requirement for "answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *." 44 U.S.C. 3502(3)(A). Because the FIP applies to a single facility, NGS, the Paperwork Reduction Act does not apply. *See* 5 CFR 1320(c).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare

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

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The FIP for NGS being finalized today does not impose any new requirements on small entities. *See Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985)

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action will make emissions limits from a single source federally enforceable.

E. Executive Order 13132: Federalism

Under section 6(b) of Executive Order 13132, EPA may not issue an action that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed action. In addition, under section 6(c) of Executive Order 13132, EPA may not issue an action that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed action.

EPA has concluded that this action may have federalism implications because it makes emissions limits from a specific source federally enforceable. However, it will not impose substantial direct compliance costs on State or local governments, nor will it preempt State law. Thus, the requirements of sections 6(b) and 6(c) of the Executive Order do not apply to this action.

Consistent with EPA policy, EPA nonetheless consulted with representatives of State and local governments [2] early in the process of developing the proposed action to permit them to have meaningful and timely input into its development.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), requires EPA to develop "an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." Under Executive Order 13175, to the extent practicable and permitted by law, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless the Federal government provides the funds necessary to pay direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement. In addition, to the extent practicable and permitted by law, EPA may not issue a regulation that has tribal implications and pre-empts tribal law unless EPA consults with tribal officials early in the process of developing the proposed regulation and prepares a tribal summary impact statement.

EPA has concluded that this final rule may have tribal implications because it will impose federally enforceable emissions limitations on a major stationary source located and operating on the Navajo reservation. However, this final rule will neither impose substantial direct compliance costs on tribal governments nor pre-empt Tribal law because the final FIP imposes obligations only on the owner or operator of NGS.

EPA has also consulted extensively with officials of the Navajo Nation in the process of developing this regulation. EPA had discussions with Tribal representatives during proposal of the FIP in 1999. We also consulted prior to the 2006 FIP proposal and Tribal officials attended the public information workshop and public hearing on the proposed FIP in 2006. Therefore, EPA has allowed the Navajo Nation to provide meaningful and timely input into the development of this rule.

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

Executive Order 13045: *Protection of Children From Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it only makes previously applicable emissions standards federally enforceable. Because this action federalizes existing requirements, it is not economically significant as defined under Executive Order 12866, and does not have a disproportionate effect on children.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12 (10) (15 U.S.C. 272 note) directs EPA to use voluntary consensus

[2] "Representatives of State and local governments" include non-elected officials of State and local governments and any representative national organizations not listed in footnote 3.

standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by the VCS bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when the Agency decides not to use available and applicable VCS.

Consistent with the NTTAA, the Agency conducted a search to identify potentially applicable VCS. For the measurements listed below, there are a number of VCS that appear to have possible use in lieu of the EPA test methods and performance specifications (40 CFR part 60, appendices A and B) noted next to the measurement requirements. It would not be practical to specify these standards in the current rulemaking due to a lack of sufficient data on equivalency and validation and because some are still under development. However, EPA's Office of Air Quality Planning and Standards is in the process of reviewing all available VCS for incorporation by reference into the test methods and performance specifications of 40 CFR part 60, appendices A and B. Any VCS so incorporated in a specified test method or performance specification would then be available for use in determining the emissions from this facility. This will be an ongoing process designed to incorporate suitable VCS as they become available.

Particulate Matter Emissions—EPA Methods 1 though 5.

Opacity—EPA Method 9 and Performance Specification Test 1 for Opacity Monitoring.

SO_2—EPA Method 6C and Performance Specification 2 for Continuous SO_2 Monitoring.

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

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

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This final rule requires emissions reductions and makes emissions limitations federally enforceable for a major stationary source.

K. Congressional Review Act

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective April 5, 2010.

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 4, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* CAA section 307(b) (2).)

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 25, 2010.

Lisa P. Jackson,

Administrator.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 49—[AMENDED]

■ 1. The authority citation for part 49 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 49.24 is added to subpart A to read as follows:

§ 49.24 Federal Implementation Plan Provisions for Navajo Generating Station, Navajo Nation.

(a) *Applicability.* The provisions of this section shall apply to each owner or operator of the fossil fuel-fired, steam-generating equipment designated as Units 1, 2, and 3, equipment associated with coal and ash handling, and the two auxiliary steam boilers at the Navajo Generating Station (NGS) on the Navajo Nation located in the Northern Arizona Intrastate Air Quality Control Region (*see* 40 CFR 81.270).

(b) *Compliance Dates.* Compliance with the requirements of this section is required upon the effective date of this section.

(c) *Definitions.* For the purposes of this section:

(1) *Absorber upset transition period* means the 24-hour period following an upset of an SO_2 absorber module which resulted in the absorber being taken out of service.

(2) *Affirmative defense* means, in the context of an enforcement proceeding, a response or defense put forward by a defendant, regarding which the defendant has the burden of proof, and the merits of which are independently and objectively evaluated in a judicial or administrative proceeding. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during certain malfunction episodes.

(3) *Malfunction* means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(4) *Owner or Operator* means any person who owns, leases, operates, controls or supervises the NGS, any of the fossil fuel-fired, steam-generating equipment at the NGS, or the auxiliary steam boilers at the NGS.

(5) *Plant-wide* means a weighted average of particulate matter and SO_2 emissions for Units 1, 2, and 3 based on the heat input to each unit as determined by 40 CFR part 75.

(6) *Point source* means any crusher, any conveyor belt transfer point, any pneumatic material transferring, any baghouse or other control devices used to capture dust emissions from loading and unloading, and any other stationary point of dust that may be observed in conformance with Method 9 of Appendix A–4 of 40 CFR Part 60 (excluding stockpiles).

(7) *Regional Administrator* means the Regional Administrator of the Environmental Protection Agency Region 9 or his/her authorized representative.

(8) *Startup* shall mean the period from start of fires in the boiler with fuel oil, to the time when the electrostatic precipitator is sufficiently heated such that the temperature of the air preheater inlet reaches 400 degrees Fahrenheit and when a unit reaches 300 MW net load. Proper startup procedures shall include energizing the electrostatic precipitator prior to the combustion of coal in the boiler. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during startup episodes. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(9) *Shutdown* shall begin when the unit drops below 300 MW net load with the intent to remove the unit from service. The precipitator shall be maintained in service until boiler fans are disengaged. This rule provides an affirmative defense to actions for penalties brought for excess emissions that arise during shutdown episodes. An affirmative defense is not available if during the period of excess emissions, there was an exceedance of the relevant ambient air quality standard that could be attributed to the emitting source.

(10) *Oxides* of nitrogen (NO_X) means the sum of nitrogen oxide (NO) and nitrogen dioxide (NO_2) in the flue gas, expressed as nitrogen dioxide.

(d) *Emissions Limitations and Control Measures*—(1) *Sulfur Oxides.* No owner or operator shall discharge or cause the discharge of sulfur oxides into the atmosphere from Units 1, 2, or 3 in excess of 1.0 pound per million British thermal units (lb/MMBtu) averaged over any three (3) hour period, on a plant-wide basis.

(2) *Particulate Matter.* No owner or operator shall discharge or cause the discharge of particulate matter into the atmosphere in excess of 0.060 lb/MMBtu, on a plant-wide basis, as averaged from at least three sampling runs per stack, each at a minimum of 60 minutes in duration, each collecting a minimum sample of 30 dry standard cubic feet.

(3) *Dust.* Each owner or operator shall operate and maintain the existing dust suppression methods for controlling dust from the coal handling and storage facilities. Within ninety (90) days after promulgation of these regulations the owner or operator shall submit to the Regional Administrator a description of the dust suppression methods for controlling dust from the coal handling and storage facilities, fly ash handling and storage, and road sweeping activities. Each owner or operator shall not emit dust with an opacity greater than 20% from any crusher, grinding mill, screening operation, belt conveyor, truck loading or unloading operation, or railcar unloading station, as determined using 40 CFR Part 60, Appendix A–4 Method 9.

(4) *Opacity.* No owner or operator shall discharge or cause the discharge of emissions from the stacks of Units 1, 2, or 3 into the atmosphere exhibiting greater than 20% opacity, excluding condensed uncombined water droplets, averaged over any six (6) minute period and 40% opacity, averaged over six (6) minutes, during absorber upset transition periods.

(e) *Testing and Monitoring.* (1) On and after the effective date of this regulation, the owner or operator shall maintain and operate Continuous Emissions Monitoring Systems (CEMS) for NOx and SO_2 and Continuous Opacity Monitoring Systems (COMS) on Units 1, 2, and 3 in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and Appendix B of Part 60. The owner or operator shall comply with the quality assurance procedures for CEMS and COMS found in 40 CFR part 75.

(2) The owner or operator shall conduct annual mass emissions tests for particulate matter on Units 1, 2, and 3, operating at rated capacity, using coal that is representative of that normally used. The tests shall be conducted using the appropriate test methods in 40 CFR Part 60, Appendix A.

(3) During any calendar year in which an auxiliary boiler is operated for 720 hours or more, and at other times as requested by the Administrator, the owner or operator shall conduct mass emissions tests for sulfur dioxide, nitrogen oxides and particulate matter on the auxiliary steam boilers, operating at rated capacity, using oil that is representative of that normally used. The tests shall be conducted using the appropriate test methods in 40 CFR Part 60, Appendix A. For particulate matter, testing shall consist of three test runs. Each test run shall be at least sixty (60) minutes in duration and shall collect a minimum volume of thirty (30) dry standard cubic feet.

(4) The owner or operator shall maintain two sets of opacity filters for each type of COMS, one set to be used as calibration standards and one set to be used as audit standards. At least one set of filters shall be on site at all times.

(5) All emissions testing and monitor evaluation required pursuant to this section shall be conducted in accordance with the appropriate method found in 40 CFR Part 60, Appendices A and B.

(6) The owner or operator shall install, maintain and operate ambient monitors at Glen Canyon Dam for particulate matter ($PM_{2.5}$ and PM_{10}), nitrogen dioxide, sulfur dioxide, and ozone. Operation, calibration and maintenance of the monitors shall be performed in accordance with 40 CFR Part 58, manufacturer's specification, and "Quality Assurance Handbook for Air Pollution Measurements Systems", Volume II, U.S. EPA as applicable to single station monitors. Data obtained from the monitors shall be reported annually to the Regional Administrator. All particulate matter samplers shall operate at least once every six days, coinciding with the national particulate sampling schedule.

(7) Nothing herein shall limit EPA's ability to ask for a test at any time under section 114 of the Clean Air Act, 42 U.S.C. 7413, and enforce against any violation of the Clean Air Act or this section.

(8) A certified EPA Reference Method 9 of Appendix A–4 of 40 CFR Part 60 observer shall conduct a weekly visible emission observation for the equipment and activities described under Section 49.24(d)(3). If visible emissions are present at any of the equipment and/or activities, a 6-minute EPA Reference Method 9 observation shall be conducted. The name of the observer, date, and time of observation, results of the observations, and any corrective actions taken shall be noted in a log.

(f) *Reporting and Recordkeeping Requirements.* Unless otherwise stated all requests, reports, submittals, notifications and other communications to the Regional Administrator required by this section shall be submitted to the

Director, Navajo Environmental Protection Agency, P.O. Box 339, Window Rock, Arizona 86515, (928) 871–7692, (928) 871–7996 (facsimile), and to the Director, Air Division, U.S. Environmental Protection Agency, Region IX, to the attention of Mail Code: AIR–5, at 75 Hawthorne Street, San Francisco, California 94105, (415) 972–3990, (415) 947–3579 (facsimile). For each unit subject to the emissions limitations in this section the owner or operator shall:

(1) Comply with the notification and recordkeeping requirements for testing found in 40 CFR 60.7. All data/reports of testing results shall be submitted to the Regional Administrator and postmarked within 60 days of testing.

(2) For excess emissions, notify the Navajo Environmental Protection Agency Director and the U.S. Environmental Protection Agency Regional Administrator by telephone or in writing within one business day. This notification should be sent to the Director, Navajo Environmental Protection Agency, by mail to: P.O. Box 339, Window Rock, Arizona 86515, or by facsimile to: (928) 871–7996 (facsimile), and to the Regional Administrator, U.S. Environmental Protection Agency Region 9, by mail to the attention of Mail Code: AIR–5, at 75 Hawthorne Street, San Francisco, California 94105, by facsimile to: (415) 947–3579 (facsimile), or by e-mail to: *r9.aeo@epa.gov.* A complete written report of the incident shall be submitted to the Regional Administrator within ten (10) working days after the event. This notification shall include the following information:

(i) The identity of the stack and/or other emissions points where excess emissions occurred;

(ii) The magnitude of the excess emissions expressed in the units of the applicable emissions limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(iii) The time and duration or expected duration of the excess emissions;

(iv) The identity of the equipment causing the excess emissions;

(v) The nature and cause of such excess emissions;

(vi) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction; and

(vii) The steps that were taken or are being taken to limit excess emissions.

(3) Notify the Regional Administrator verbally within one business day of determination that an exceedance of the NAAQS has been measured by a monitor operated in accordance with this regulation. The notification to the Regional Administrator shall include the time, date, and location of the exceedance, and the pollutant and concentration of the exceedance. Compliance with this paragraph (f)(3)(v) shall not excuse or otherwise constitute a defense to any violations of this section or of any law or regulation which such excess emissions or malfunction may cause. The verbal notification shall be followed within fifteen (15) days by a letter containing the following information:

(i) The time, date, and location of the exceedance;

(ii) The pollutant and concentration of the exceedance;

(iii) The meteorological conditions existing 24 hours prior to and during the exceedance;

(iv) For a particulate matter exceedance, the 6-minute average opacity monitoring data greater than 20% for the 24 hours prior to and during the exceedance; and

(v) Proposed plant changes such as operation or maintenance, if any, to prevent future exceedances.

(4) Submit quarterly excess emissions reports for sulfur dioxide and opacity as recorded by CEMS and COMS together with a CEMS data assessment report to the Regional Administrator no later than 30 days after each calendar quarter. The owner or operator shall complete the excess emissions reports according to the procedures in 40 CFR 60.7(c) and (d) and include the Cylinder Gas Audit. Excess opacity due to condensed water vapor in the stack does not constitute a reportable exceedance; however, the length of time during which water vapor interfered with COMs readings should be summarized in the 40 CFR 60.7 (c) report.

(g) *Compliance Certifications.* Notwithstanding any other provision in this implementation plan, the owner or operator may use any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certifications.

(h) *Equipment Operations.* The owner or operator shall operate all equipment or systems needed to comply with this section in accordance with 40 CFR 60.11(d) and consistent with good engineering practices to keep emissions at or below the emissions limitations in this section, and following outages of any control equipment or systems the control equipment or system will be returned to full operation as expeditiously as practicable.

(i) *Enforcement.* (1) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not a person has violated or is in violation of any standard in the plan.

(2) During periods of start-up and shutdown the otherwise applicable emission limits or requirements for opacity and particulate matter shall not apply provided that: (i) At all times the facility is operated in a manner consistent with good practice for minimizing emissions, and the owner or operator uses best efforts regarding planning, design, and operating procedures to meet the otherwise applicable emission limit;

(ii) The frequency and duration of operation in start-up or shutdown mode are minimized to the maximum extent practicable; and

(iii) The owner or operator's actions during start-up and shutdown periods are documented by properly signed, contemporaneous operating logs, or other relevant evidence.

(3) Emissions in excess of the level of the applicable emission limit or requirement that occur due to a malfunction shall constitute a violation of the applicable emission limit. However, it shall be an affirmative defense in an enforcement action seeking penalties if the owner or operator has met with all of the following conditions:

(i) The malfunction was the result of a sudden and unavoidable failure of process or air pollution control equipment and did not result from inadequate design or construction of the process or air pollution control equipment;

(ii) The malfunction did not result from operator error or neglect, or from improper operation or maintenance procedures;

(iii) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(iv) Steps were immediately taken to correct conditions leading to the malfunction, and the amount and duration of the excess emissions caused by the malfunction were minimized to the maximum extent practicable;

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

(vi) All emissions monitoring systems were kept in operation if at all possible; and

(vii) The owner or operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence.

[FR Doc. 2010–4542 Filed 3–4–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2010–0011; FRL–9122–4]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Iowa State Implementation Plan (SIP) submitted by the State on April 28, 2009. The purpose of these revisions is to update existing air quality rules; make corrections, clarifications and improvements; and to add information with regard to the application of permit exemptions. EPA is approving the SIP revisions pursuant to section 110 of the Clean Air Act.

DATES: This direct final rule will be effective May 4, 2010, without further notice, unless EPA receives adverse comment by April 5, 2010. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2010–0011, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *E-mail: casburn.tracey@epa.gov.*
3. *Mail or Hand Delivery:* Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2010–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 a.m. to 4:30 p.m. excluding Federal holidays. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn at (913) 551–7016, or by e-mail at *casburn.tracey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to the EPA.

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IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

The State has revised Chapter 22 of the State air pollution control rules promulgated by the State's Environmental Protection Commission. EPA is approving the revisions described below for the reasons discussed in this document.

II. What revisions is EPA approving?

The State made revisions to Chapter 22, "Controlling Pollution," to clarify the terms and conditions of permit exemptions for certain internal combustion engines and spray booths. Those revisions are described in this document.

The State added a requirement to Iowa Rule 567–22.1(2)"r" that the owner or operator of an internal combustion engine with a brake horsepower of less than 400, measured at the shaft, must submit a certification to the Iowa Department of Natural Resources that the engine is in compliance with Federal New Source Performance Standards listed at 40 CFR Part 60, Subpart IIII or Subpart JJJJ and Federal National Emission Standards for Hazardous Air Pollutants (NESHAPS) listed at 40 CFR Part 63, Subpart ZZZZ.

The State amended Iowa Rule 567–22.8(1) to add clarification that the facilities, which spray one gallon per day or less of sprayed material on a facility-wide basis, are exempt from all other requirements of Iowa Rule 567–22 with the exception that the owner or operator must adhere to record keeping requirements specified in the rule for the sprayed material. The revision also requires that the owner or operator must certify that the facility is in compliance with or otherwise exempt from the Federal regulations specified in Iowa Rule 567–22.8(1)"e" (the NESHAPS for paint stripping and surface coating at area sources, and the NESHAPS for metal fabricating and finishing at area sources).

The State added amendments to the same rule clarifying that facilities, which spray more than one gallon per day but never more than three gallons per day on a facility-wide basis, are exempt from all other requirements of Iowa State Rule 567–22 except the owner or operator must adhere to certification, recordkeeping and emissions venting requirements as identified in the rule. The State added a requirement that the owner or operator must certify that the facility is in compliance with or otherwise exempt from the Federal regulations specified in Iowa Rule 567–22.8(1)"e" (described above).