

(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 40% 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. 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.

(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 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 appendix F of 40 CFR part 60. Excess opacity due to uncondensed water vapor in the stack does not constitute a reportable exceedance.

(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.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671, *et seq.*

Subpart D—Arizona

2. Subpart D is proposed to be amended by adding § 52.141 to read as follows:

§ 52.141 Federal Implementation Plan for Navajo Generating Station, Navajo Nation.

The Federal Implementation Plan regulating emissions from the Navajo Generating Station near Page, Arizona is codified at 40 CFR 49.20.

[FR Doc. 99-23276 Filed 9-7-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[FRL-6432-6]

RIN 2060-AF42

Source Specific Federal Implementation Plan for Four Corners Power Plant; Navajo Nation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to promulgate a source-specific Federal Implementation Plan (FIP) to regulate emissions from the Four Corners Power Plant (FCPP), a coal-fired power plant located on the Navajo Indian Reservation near Farmington, New Mexico.

DATES: Comments must be received on or before October 8, 1999.

ADDRESSES: Written comments should be addressed to: Douglas K. McDaniel, Air Division (AIR-8), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

FOR FURTHER INFORMATION CONTACT: Douglas K. McDaniel, Air Division (AIR-8), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1246.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
 - A. Action
 - B. Facility
 - C. Attainment
 - D. Jurisdictional Issue
- II. Basis for Proposed Action
 - A. EPA's Authority to Promulgate a FIP in Indian Country
 - B. Relation to Tribal Authority Rule
- III. Four Corners Power Plant—Facility Description
- IV. Summary of FIP Provisions
 - A. State Standards
 - B. Acid Rain Program Requirements
 - C. Proposed FIP Standards

- D. Summary of Changes From State Standards
- E. Compliance Schedule
- V. Solicitation of Comments
- VI. Administrative Requirements
 - A. Executive Order 12866
 - B. Regulatory Flexibility
 - C. Unfunded Mandates Reform Act
 - D. Paperwork Reduction Act
 - E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - F. Executive Order 12875: Enhancing the Intergovernmental Partnership
 - G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments
 - H. National Technology Transfer and Advancement Act

I. Background

A. Action

In today's action, EPA proposes to federalize standards from the New Mexico state implementation plan (SIP) applicable to the FCPP. Where necessary, EPA's proposed emission standards and associated requirements modify those extracted from New Mexico's regulatory programs to ensure comprehensive emission control and federal consistency.

B. Facility

FCPP is a privately owned and operated coal-fired power plant located on the Navajo Indian Reservation near Farmington, New Mexico. Through lease agreements, the facility utilizes real property held in trust by the federal government for the Navajo Nation. The facility operates five units with a total capacity in excess of 2000 megawatts (MW). Operations at the facility produce emissions of sulfur dioxide (SO₂), nitrogen dioxide (NO_x) and particulate matter (PM).

C. Attainment

FCPP is located in the Four Corners Interstate air quality control region (AQCR), which is designated attainment for all criteria pollutants under the Clean Air Act (CAA or "the Act"). 40 CFR 81.332. As the proposed FCPP FIP merely federalizes the regulatory scheme with which the plant has been complying, EPA believes that air quality, and hence the attainment status, in this area will not be negatively impacted by this action.¹

D. Jurisdictional Issue

Historically, emissions of air pollutants from the FCPP facility have

¹ A different conclusion may be reached by EPA, however, if, for example, there were evidence that the source to be regulated by the FIP is causing or contributing to violations of the applicable NAAQS, or was located in an area that is designated nonattainment for such NAAQS.

been regulated under provisions of the New Mexico air pollution control program, in accordance with the New Mexico SIP. However, States are generally precluded from enforcing their civil regulatory programs on Tribal lands, absent an explicit Congressional authorization or State-Tribal agreement. See *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).

Both the Navajo Nation and members of the regulated community have queried EPA concerning the jurisdictional issue of who has authority under the Act to regulate air emissions from FCPP. Upon review of the circumstances surrounding the location and operation of FCPP on the Navajo Indian Reservation, EPA concluded that jurisdiction under the Act over this facility lies with EPA and the Navajo Nation. EPA met with representatives of the State of New Mexico, the Navajo Nation and FCPP to discuss this jurisdictional issue. All parties have expressed agreement with this conclusion.

II. Basis for Proposed Action

A. EPA's Authority to Promulgate a FIP in Indian Country

EPA's conclusion that CAA jurisdiction over FCPP lies with EPA and the Navajo Nation necessarily leads to the conclusion that a regulatory gap exists with regard to this facility. EPA is thus proposing to remedy this gap with a source-specific FIP. This FIP will in essence federalize the New Mexico SIP requirements with which the facility has been complying.

The Clean Air Act Amendments of 1990 greatly expanded the role of Indian tribes in implementing the provisions of the Clean Air Act in Indian country. Section 301(d) of the Act authorizes EPA to issue regulations specifying the provisions of the Clean Air Act for which Indian tribes may be treated in the same manner as states. See CAA sections 301(d)(1) and (2). EPA promulgated the final rule under section 301(d) of the Act, entitled "Indian Tribes: Air Quality Planning and Management," on February 12, 1998. 63 FR 7254. The rule is generally referred to as the "Tribal Authority Rule" or "TAR".

In the preamble to the proposed² and final rule, EPA discusses generally the legal basis under the CAA by which EPA and tribes are authorized to regulate sources of air pollution in Indian country. EPA concluded that the CAA constitutes a statutory grant of jurisdictional authority to Indian tribes

² See 59 FR 43956 (August 25, 1994).

that allows them to develop air programs for EPA approval in the same manner as states. 63 FR at 7254-7259; 59 FR 43958-43960.

EPA also concluded that the CAA authorizes EPA to protect air quality throughout Indian country, including on fee lands. See 63 FR 7262; 59 FR 43960-43961 (citing to CAA sections 101(b)(1), 301(a), and 301(d)). In fact, in promulgating the TAR, EPA specifically provided that, pursuant to the discretionary authority explicitly granted to EPA under sections 301(a) and 301(d)(4) of the Act, EPA 63 FR at 7273 (codified at 40 CFR 49.11(a)),³ "shall promulgate without unreasonable delay such federal implementation plan provisions as are necessary or appropriate to protect air quality, consistent with the provisions of sections 304(a) and 301(d)(4), if a tribe does not submit a tribal implementation plan meeting the completeness criteria of 40 CFR part 51, Appendix V, or does not receive EPA approval of a submitted tribal implementation plan."

It is EPA's policy to aid tribes in developing comprehensive and effective air quality management programs by providing technical and other assistance to them. EPA recognizes, however, that just as it required many years to develop state and federal programs to cover lands subject to state jurisdiction, it will also require time to develop tribal and federal programs to cover reservations and other lands subject to tribal jurisdiction. 59 FR at 43961.

The Navajo Nation has expressed a strong interest in seeking authority under the TAR to regulate sources of air pollution located on the Reservation under the Clean Air Act. Based on discussions with the Tribe, however, EPA believes that it will be at least several months before the Tribe will be ready to seek authority under the TAR to assume Clean Air Act planning responsibilities and that, when they do so, the Tribe intends to build its capacity and seek authority for the various Clean Air Act programs over time, rather than all at once. The Tribe has advised EPA that it continues to support EPA's efforts to impose such controls on FCPP as are necessary to

³ In the preamble to the final TAR, EPA explained that it believed it was inappropriate to treat tribes in the same manner as States with respect to section 110(c) of the Act, which directs EPA to promulgate a FIP within two years after EPA finds a state has failed to submit a complete state plan or within two years after EPA disapproval of a state plan. Although EPA is not required to promulgate a FIP within the two year period for tribes, EPA promulgated 40 CFR 49.11(a) to clarify that EPA will continue to be subject to the basic requirement to issue any necessary or appropriate FIP provisions for affected tribal areas within some reasonable time. See 63 FR 7264-7265.

ensure continued compliance with the substantive requirements of the New Mexico SIP, notwithstanding the recent promulgation of the TAR.

Therefore, in this proposed FIP, EPA is exercising its discretionary authority under sections 301(a) and 301(d)(4) of the CAA and 40 CFR 49.11(a) to promulgate a federal implementation plan in order to remedy an existing regulatory gap under the Act with respect to FCPP. Although the facility has been historically regulated by New Mexico since its construction, the state lacks jurisdiction over the facility or its owners or operators for CAA compliance or enforcement purposes. The Tribe has not submitted a tribal implementation plan to address emissions from FCPP and has indicated to EPA that it prefers to have EPA address the emissions from FCPP at this time. Since the Navajo Nation does not presently have a federally approved TIP, in the absence of a comprehensive FIP the applicable regulatory requirements arising under state law would not be enforceable. EPA's FIP will federalize requirements applicable to FCPP contained in the New Mexico SIP. Given the magnitude of the emissions from the plant, EPA believes that the proposed FIP provisions are both necessary and appropriate to protect air quality on the Reservation.

B. Relation to Tribal Authority Rule

As discussed above, under Section 301(d) of the Act, a tribe may develop and implement one or more of its own air quality programs under the Act through a Tribal Air Program. On February 12, 1998, EPA promulgated regulations under Section 301(d) of the Act which provide the framework for tribes to obtain authority to administer federally-approved and federally-enforceable programs under the Act, including tribal implementation plans. See 59 FR 43956, August 25, 1994 (proposed rule) and 63 FR 7254, February 12, 1998 (final rule).

The Navajo Nation now has the option of assuming responsibility for the development and implementation of federally enforceable air quality programs under the Clean Air Act. Until a federally approved Navajo Nation TIP is in place with regulations which cover FCPP, however, EPA has exclusive jurisdiction to regulate the source under the Act. Once final, the regulations proposed today will remain in effect until a TIP governing FCPP is in place and the FIP is withdrawn.

III. Four Corners Power Plant—Facility Description

The FCPP is a 2040 MW coal-fired power plant located on the Navajo Indian Reservation near Farmington, New Mexico. The FCPP consists of three 190 to 253 MW units and two 818 MW units all of which became operational between 1962 and 1970. The Arizona Public Service Company (APS) is the operating agent for FCPP which is jointly owned by the APS, the Southern California Edison Company, the Salt River Project Agricultural Improvement and Power District (SRP), the Public Service Company of New Mexico, the El Paso Electric Company and the Tucson Electric Power Company. Existing pollution control equipment at FCPP units 4 and 5 includes baghouses and lime spray towers for SO₂ control and specific burners designed for NO_x control. Units 1, 2 and 3 each have a venturi scrubber for particulate and SO₂ control.

IV. Summary of FIP Provisions

A. State Standards

The standards in this FIP proposal are generally based on the state standards under which the facility has been operating (FCPP must also continue to comply with all applicable federal requirements). These standards, derived from the New Mexico SIP, are summarized as follows:

1. SO₂ emissions are limited to 28 percent of the SO₂ produced in coal burning or 17,900 pounds per hour based on an averaged three hour period (AQCR 602).
2. Particulate emissions are limited to 0.05 pounds per million BTU (AQCR 504).
3. Excess emissions notification requirements are specified (AQCR 801).

B. Acid Rain Program Requirements

The Federal Acid Rain Program requires that low-NO_x burners be installed on all five units. By the year 2000, Units 1, 2 and 3 (wall-fired boilers) must comply with a .46 lb/MMbtu annual average of NO_x. Units 4 and 5 (cell-fired boilers) must meet a limit of .68 lb/MMbtu.

Emissions of SO₂ are regulated through an allowance system. FCPP has sufficient allowances to cover current emissions.

C. Proposed FIP Standards

1. SO₂ emissions are not to exceed 28 percent of the SO₂ produced in the burning of sulfur-bearing coal (averaged over successive thirty boiler operating day periods station-wide) and not to exceed 17,900 pounds of total SO₂ per

hour averaged over any consecutive three hour period station-wide.

2. Particulate emissions are not to exceed 0.050 pounds per million BTU of heat input.

3. Opacity is limited to 20 percent averaged over a six minute period, for Units 4 and 5.

4. APS will develop a plan to monitor, record and report operating parameters indicative of good operation of the scrubbers for control of particulate matter on Units 1, 2, and 3.

5. Nitrogen oxides are not to exceed 0.85 pounds per million BTU of input for Units 1 and 2, and 0.65 pounds per million BTU of input for Units 3, 4, and 5, averaged over any successive 30 boiler operating day period; nor shall they exceed 335,000 lb per 24-hour period on a station-wide basis. When any one unit is not operating, the limits are reduced by 1542 pounds per hour for units 1, 2, and 3, and by 4667 pounds per hour for units 4 and 5.

D. Summary of Changes From State Standards

1. The NO_x requirements are more stringent than those contained in the New Mexico SIP. These requirements were submitted to EPA, Region 6, on November 4, 1991 as a New Mexico SIP revision, and were not acted on as the SIP has no effect over FCPP.

2. The SIP particulate emissions sampling methods, which were based in part on an analysis of fine particulates, have been changed to EPA methods referenced in federal code (40 CFR part 60, appendix A, Methods 1–5). The fine particulate analysis was not being routinely performed and the EPA methods were in use at the facility. Further, EPA believes that the particulate matter limit is the more stringent of the two emission limits.

3. The standard for opacity has been added in order to confirm Units 4 and 5 are in continuous compliance and are properly operated and maintained. These units operate with baghouses for particulate control and therefore are able to meet this limit.

4. The opacity limit is not being applied to Units 1, 2 and 3. The scrubbers currently in operation on Units 1, 2 and 3 were designed for control of particulate, and were later redesigned to also control sulfur dioxide. However, FCPP cannot currently meet a continuous opacity limit of 20 percent at Units 1, 2 and 3. EPA is proposing that FCPP design and enact a plan to monitor operating parameters such as pressure drop and scrubber liquid flow for the scrubbers. This will yield information about continuous proper operation of the

scrubbers for particulate control. This information could then be used to determine appropriate parameters, which could be included in FCPP's Title V permit as indicators for good particulate matter control practice.

5. The standard for SO₂ is unchanged but the method of compliance determination has been changed to a method based on CEM rather than on stack sampling.

6. A number of other changes were made relative to the New Mexico SIP making the FIP specific to FCPP, and to conform to EPA excess emissions and other reporting and quality assurance procedures.

E. Compliance Schedule

The EPA proposes that the requirements contained in this proposal become effective upon promulgation of these regulations, since the emission limits established by the proposed FIP are presently being achieved at the facility.

V. Solicitation of Comments

The EPA solicits comments on all aspects of today's proposal to promulgate a FIP to regulate air emissions from FCPP. Interested parties should submit comments to the address listed in the front of this proposed rule. Public comments postmarked by October 8, 1999 will be considered in the final action taken by EPA.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order (E.O.) 12866, 58 FR 51735 (October 4, 1993), all "regulatory actions" that are "significant" are subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. A "regulatory action" is defined as "any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected to result in the promulgation of a final rule or regulation, including * * * notices of proposed rulemaking." A "regulation or rule" is defined as "an agency statement of general applicability and future effect, * * *."

The proposed FIP is not subject to OMB review under E.O. 12866 because it applies to only a single, specifically named facility and is therefore not a rule of general applicability. Thus, it is not a "regulatory action" under E.O. 12866.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. The federal implementation plan for the Four Corners Power Plant proposed 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) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 04-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed rules and for final rules for which EPA published a notice of proposed rulemaking, if those rules contain "federal mandates" that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If section 202 requires a written statement, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why EPA did not adopt that alternative. The provisions of section 205 do not apply when they are inconsistent with applicable law. Section 204 of UMRA requires EPA to develop a process to allow elected officers of state, local, and tribal governments (or their designated, authorized employees), to provide meaningful and timely input in the development of EPA regulatory proposals containing significant Federal intergovernmental mandates.

EPA has determined that the proposed FIP contains no federal mandates on state, local or tribal governments, because it will not impose

any enforceable duties on any of these entities. EPA further has determined that the proposed FIP is not likely to result in the expenditure of \$100 million or more by the private sector in any one year. Although the proposed FIP would impose enforceable duties on an entity in the private sector, the costs are expected to be minimal. Consequently, sections 202, 204, and 205 of UMRA do not apply to the proposed FIP.

Before EPA establishes any regulatory requirements that might significantly or uniquely affect small governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed FIP will not significantly or uniquely affect small governments, because it imposes no requirements on small governments. Therefore, the requirements of section 203 do not apply to the proposed FIP. Nonetheless, EPA worked closely with representatives of the Tribe in the development of today's proposed action.

D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all "collections of information" by EPA. The Act defines "collection of information" 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 proposed FIP only applies to one company, the Paperwork Reduction Act does not apply.

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

This executive order applies to any rule that: (1) Is determined to be "economically significant" as that term is defined in E.O. 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.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. The FCPP FIP is not subject to E.O. 13045 because it implements previously promulgated health or safety-based federal standards.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and EPA's position supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

As stated above, the proposed FIP will not create a mandate on state, local or tribal governments because it will not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule. Nonetheless, EPA worked closely with representatives of the Tribe during the development of today's proposed action.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by

consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

The proposed FIP does not impose substantial direct compliance costs on the communities of Indian tribal governments. The proposed FIP imposes obligations only on the owner or operator of FCPP. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12 (10 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g. materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by the voluntary consensus standards 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 voluntary consensus standards.

Consistent with the NTTAA, the Agency conducted a search to identify potentially applicable voluntary consensus standards (VCS). For the measurement of the sulfur in the coal for calculating the efficiency of the SO₂ scrubbers for FCCP, EPA proposes to require use of ASTM standards. FCCP would have the ability to choose an applicable ASTM standard for both the coal sample collection and the sulfur in coal analysis.

Another consensus standard, ASTM D6216-98, appears to be practical for use in lieu of EPA Performance Specification 1 (see 40 CFR part 60, appendix B) for the opacity monitoring to be required for this facility. On September 23, 1998, EPA proposed

incorporating by reference ASTM D6216-98 into Performance Specification 1 under a separate rulemaking (63 FR 50824) that would allow broader use and application of this consensus standard. EPA plans to complete this action in the near future. As it would be impractical for EPA to act independently from rulemaking activity already undergoing notice and comment, EPA defers taking action in the current rulemaking that would immediately adopt D6216-98, and we will therefore require use of EPA Performance Specification 1 in the interim.

In regard to the remaining measurement needs as listed below, there are a number of voluntary consensus standards 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 through 5.

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

SO₂—EPA Method 6C and Performance Specification 2 for Continuous SO₂ Monitoring.

NO_x—EPA Method 7E and Performance Specification 2 for Continuous NO_x Monitoring and Performance Specification 6 for Flow Monitoring.

List of Subjects

40 CFR Part 49

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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting

and recordkeeping requirements, Sulfur oxides.

Dated: August 27, 1999.

Carol M. Browner,
Administrator.

Title 40 chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 49—TRIBAL CLEAN AIR ACT AUTHORITY

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

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

2. Part 49 is proposed to be amended by adding § 49.21 to read as follows:

§ 49.21 Federal Implementation Plan Provisions for Four Corners Power Plant, Navajo Nation.

(a) *Applicability.* The provisions of this section shall apply to each owner or operator of the coal burning equipment designated as Units 1, 2, 3, 4, and 5 at the Four Corners Power Plant ("the Plant") in the Navajo Indian Reservation located in the Four Corners Interstate Air Quality Control Region (see 40 CFR 81.121).

(b) *Compliance Dates.* Compliance with the requirements of this section is required upon promulgation unless otherwise indicated by compliance dates contained in specific provisions.

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

(1) *Administrator* means the Administrator of the Environmental Protection Agency (EPA) or his/her authorized representative.

(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.

(3) *Air pollution control equipment* includes baghouses, particulate or gaseous scrubbers, and any other apparatus utilized to control emissions of regulated air contaminants which would be emitted to the atmosphere.

(4) *Boiler operating day* means a 24-hour period during which coal is combusted in a Unit for the entire 24 hours.

(5) *Daily average* means the arithmetic average of the hourly values measured in a 24-hour period.

(6) *Excess emissions* means the emissions of air contaminants in excess of an applicable emissions limitation or requirement.

(7) *Heat input* means heat derived from combustion of fuel in a Unit and

does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources.

(8) *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.

(9) *Owner or Operator* means any person who owns, leases, operates, controls, or supervises the Plant or any of the coal burning equipment designated as Units 1, 2, 3, 4, or 5 at the Plant.

(10) *Oxides of nitrogen (NO_x)* means the sum of nitric oxide (NO) and nitrogen dioxide (NO₂) in the flue gas, expressed as nitrogen dioxide.

(11) *Shutdown* means the cessation of operation of any air pollution control equipment, process equipment, or process for any purpose. Specifically, for Units 1, 2, or 3, shutdown begins when the unit drops below 40 MW net load with the intent to remove the unit from service. For Units 4 or 5, shutdown begins when the unit drops below 300 MW net load with the intent to remove the unit from service.

(12) *Startup* means the setting into operation of any air pollution control equipment, process equipment, or process for any purpose. Specifically, for Units 1, 2, or 3, startup ends when the unit reaches 40 MW net load. For Units 4 or 5, startup ends when the unit reaches 400 MW net load.

(13) *Station-wide basis* means total stack emissions of any particular pollutant from all coal burning equipment at the Plant.

(14) *24-hour period* means the period of time between 12:01 a.m. and 12:00 midnight.

(d) *Emissions Standards.*—(1) *Sulfur Dioxide.* No owner or operator shall discharge or cause the discharge of sulfur dioxide (SO₂) into the atmosphere in excess of:

(i) 28% of that which is produced by the Plant's coal burning equipment, averaged over any successive thirty (30) boiler operating day period, determined on a station-wide basis; and

(ii) 17,900 pounds of total sulfur dioxide emissions per hour averaged over any consecutive three (3) hour period, determined on a station-wide basis.

(2) *Particulate Matter.* No owner or operator shall discharge or cause the discharge of particulate matter from any coal burning equipment into the

atmosphere in excess of 0.050 pound per million British thermal unit (lb/MMBtu) of heat input (higher heating value), as averaged over six (6) hours of sampling.

(3) *Opacity.* No owner or operator shall discharge or cause the discharge of emissions from the stacks of Units 4 and 5 into the atmosphere exhibiting greater than 20% opacity, excluding water vapor, averaged over any six (6) minute period (except for one six (6) minute period per hour of not more than 27% opacity, excluding water vapor).

(4) *Oxides of nitrogen.* No owner or operator shall discharge or cause the discharge of NO_x into the atmosphere:

(i) From either Unit 1 or 2 in excess of 0.85 lb/MMBtu of heat input per unit, and from either Units 3, 4, or 5 in excess of 0.65 lb/MMBtu of heat input per unit averaged over any successive thirty (30) boiler operating day period;

(ii) In excess of 335,000 lb per 24-hour period when coal burning equipment is operating, on a station-wide basis; for each hour when coal burning equipment is not operating, this limitation shall be reduced. If the unit which is not operating is Unit 1, 2, or 3, the limitation shall be reduced by 1,542 lb per hour for each unit which is not operating. If the unit which is not operating is Unit 4 or 5, the limitation shall be reduced by 4,667 lb per hour for each unit which is not operating.

(e) *Testing and monitoring.* Upon completion of the installation of continuous emissions monitoring systems (CEMS) software as required in this section, compliance with the emissions limits set for SO₂ and NO_x shall be determined by using data from a CEMS unless otherwise specified in paragraphs (e)(2) and (e)(4) of this section. Compliance with the emissions limit set for particulate matter shall be determined annually, or at such other time as requested by the Administrator, based on data from testing conducted in accordance with 40 CFR part 60, appendix A, Methods 1 through 5, or any other method receiving prior approval from the Administrator. Upon completion of the installation of continuous opacity monitoring systems (COMS) software as required in this regulation, compliance with the emissions limits set for opacity shall be determined by using data from a COMS except during saturated stack conditions (condensed water vapor). If the baghouse is operating within its normal operating parameters and a high opacity reading occurs it will be presumed that the occurrence was caused by saturated stack conditions and shall not be considered an excess emission.

(1) The owner or operator shall maintain and operate CEMS for SO₂, NO or NO_x, a diluent and, for Units 4 and 5 only, COMS, in accordance with 40 CFR 60.8 and 60.13, and appendix B of 40 CFR part 60. Within six (6) months of promulgation of this regulation, the owner or operator shall install CEMS and COMS software which complies with the requirements of this regulation. The owner or operator of the Plant may petition the Administrator for extension of the six (6) month period for good cause shown. Completion of 40 CFR part 75 monitor certification requirements shall be deemed to satisfy the requirements under 40 CFR 60.8 and 60.13 and appendix B of part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75, and all reports required thereunder shall be submitted to the Administrator. The owner or operator shall provide the Administrator notice in accordance with 40 CFR 75.61.

(2) *Sulfur Dioxide.* (i) For the purpose of determining compliance with this section, the sulfur dioxide inlet rate (in lb/MMBtu) shall be calculated using the daily average percent sulfur and Btu content of the coal combusted. The inlet sulfur concentration and Btu content shall be determined in accordance with American Society for Testing and Materials (ASTM) methods or any other method receiving prior approval from the Administrator. The analyses shall be done on as fired daily fuel samples collected before the coal pulverizers using ASTM methods or any other method receiving prior approval from the Administrator. The inlet sulfur dioxide concentration shall be calculated using the following formula:

$$I_s = 2(\%S_f)/GCV \times 10^4 \text{ English units}$$

Where:

I_s = sulfur dioxide inlet concentrations in pounds per million Btu;

$\%S_f$ = weight percent sulfur content of the fuel; and

GCV = Gross calorific value for the fuel in Btu per pound.

(ii) The outlet SO₂ emissions shall be determined from CEMS data gathered in accordance with this section.

(3) *Particulate Matter.* Particulate matter testing shall be conducted annually and at least six (6) months apart, with the equipment within 90% of maximum operation in accordance with 40 CFR 60.8 and appendix A to 40 CFR part 60. The owner or operator may test Units 1 and 2 together when both units are operating or may test them separately when one unit is out of service since Units 1 and 2 share a common stack. The owner or operator shall submit written notice of the date

of testing no later than 21 days prior to testing. Testing may be performed on a date other than that already provided in a notice as long as notice of the new date is provided either in writing or by telephone or other means acceptable to the Administrator, and the notice is provided as soon as practicable after the new testing date is known, but no later than 7 days (or a shorter period as approved by the Administrator) in advance of the new date of testing.

(4) *Oxides of nitrogen.* The total daily station-wide oxides of nitrogen emissions in pounds of NO₂ per day shall be calculated using the following formula:

$$TE = \sum_{i=1}^n \sum_{j=1}^m (E_{ij} \times H_{ij})$$

Where:

TE = total station-wide nitrogen dioxide emissions (lb NO₂/day);

E_{ij} = hourly average emissions rate of each unit (lb NO₂/MMBtu);

H_{ij} = hourly total heat input for each unit (MMBtu);

n = the number of units of coal burning equipment operating during the hour;

m = the number of operating hours in a day, from midnight to midnight.

(5) Continuous emissions monitoring shall apply during all periods of operation of the coal burning equipment, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring sulfur dioxide, NO_x, and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. The one-hour averages shall be calculated using these data points. At least two data points must be used to calculate the one-hour averages. When emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in at least 22 out of 30 successive boiler operating days. NO_x emissions rates and quantities shall be reported as NO₂ concentrations. When CEMS data is not available because of malfunctions, the unavailable NO_x data will be replaced with a calculated value based on the average of the last valid data point and the next valid data point for purposes of calculating total station-wide nitrogen dioxide emissions.

(6) 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.

(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. 7414, and enforce against any violation.

(8) In order to provide reasonable assurance that the scrubbers for control of particulate matter from Units 1, 2, and 3 are being maintained and operated in a manner consistent with good air pollution control practice for minimizing emissions, the owner or operator shall comply with the following provisions:

(i) The owner or operator shall develop a plan to monitor, record, and report parameter(s) indicative of the proper operation of the scrubbers to provide a reasonable assurance of compliance with the particulate matter limits in paragraph (d)(2) of this section. The owner or operator shall submit this plan to the Administrator no later than December 31, 1999. The owner or operator shall implement this plan within 30 days of approval by the Administrator and shall commence reporting the data generated pursuant to the monitoring plan in accordance with the schedule in paragraph (e)(8)(v) of this section.

(ii) In the event that the owner or operator is unable to develop the plan required in paragraph (e)(8)(i) of this section due to technical difficulties, fails to submit the plan by December 31, 1999, or the Administrator disapproves the plan, the owner or operator shall install and operate devices to measure the pressure drop across each scrubber module and the total flow of scrubbing liquid to the venturi section of each scrubber module. The data from these instruments shall be monitored and recorded electronically. A minimum of one reading every 15 minutes shall be used to calculate an hourly average which shall be recorded and stored for at least a five-year period. The owner or operator shall report in an electronic format either all hourly data, or one-hour averages deviating by more than 30% from the levels measured during the last particulate matter stack test that demonstrated compliance with the limit in this regulation. The owner or operator shall implement this requirement no later than February 28, 2000 if it fails to submit the plan by December 31, 1999; or no later than 60 days after the Administrator's disapproval of the plan.

(iii) The monitoring required under paragraphs (e)(8)(i) and (e)(8)(ii) of this section shall apply to each Unit at all times that the Unit is operating, except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments). A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(iv) The owner or operator may petition the Administrator for an extension of the December 31, 1999 deadline. Such extension shall be granted only if the owner or operator demonstrates to the satisfaction of the Administrator that:

(A) The delay is due to technical infeasibility beyond the control of the owner or operator; and

(B) The requested extension, if granted, will allow the owner or operator to successfully complete the plan.

(v) The owner or operator shall submit to the Administrator reports of the monitoring data required by this regulation quarterly. The reports shall be postmarked within 30 days of the end of each calendar quarter.

(vi) The owner or operator shall develop and document a quality assurance program for the monitoring and recording instrumentation. This program shall be updated or improved as requested by the Administrator.

(vii) In the event that a program for parameter monitoring on Units 1, 2, and 3 is approved pursuant to the Compliance Assurance Monitoring rule, 40 CFR part 64, such program will supersede the provisions contained in paragraph (e)(8) of this section.

(f) *Reporting and recordkeeping requirements.* Unless otherwise stated all requests, reports, submittals, notifications, and other communications to the Administrator required by this section shall be submitted 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) 744-1138, (415) 744-1076 (facsimile). For each unit subject to the emissions limitation in this regulation and upon completion of the installation of CEMS and COMS as required in this regulation, the owner or operator shall comply with the following requirements:

(1) For each emissions limit in this regulation, comply with the notification

and recordkeeping requirements for CEMS compliance monitoring in 40 CFR 60.7(c) and (d), and the CEMS data assessment report requirements of 40 CFR part 75.

(2) Furnish the Administrator with reports describing the results of the annual particulate matter emissions tests postmarked within sixty (60) days of completing the tests. Each report shall include the following information:

(i) The test date;

(ii) The test method;

(iii) Identification of the coal burning equipment tested;

(iv) Values for stack pressure, temperature, moisture, and distribution of velocity heads;

(v) Average heat input;

(vi) Emissions data, identified by sample number, and expressed in pounds per MMBtu;

(vii) Arithmetic average of sample data expressed in pounds per MMBtu; and

(viii) A description of any variances from the test method.

(3) *Excess emissions report.* (i) For excess emissions, the owner or operator shall notify the Administrator by telephone or in writing within one business day ("initial notification"). A complete written report of the incident shall be submitted to the Administrator within ten (10) business days of the initial notification. The complete written report shall include:

(A) The name and title of the person reporting;

(B) The identity and location of the Plant and Unit(s) involved, and the emissions point(s), including bypass, from which the excess emissions occurred or are occurring;

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

(D) 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;

(E) The nature of the condition causing the excess emissions and the reasons why excess emissions occurred or are occurring;

(F) 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;

(G) For an opacity exceedance, the 6-minute average opacity monitoring data greater than 20% for the 24 hours prior to and during the exceedance for Units 4 and 5; and

(H) The efforts taken or being taken to minimize the excess emissions and to repair or otherwise bring the Plant into

compliance with the applicable emissions limit(s) or other requirements.

(ii) If the period of excess emissions extends beyond the submittal of the written report, the owner or operator shall also notify the Administrator in writing of the exact time and date when the excess emissions stopped.

Compliance with the excess emissions notification provisions of this section 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.

(g) *Equipment Operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the Plant including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the Plant. With regard to the operation of the baghouses on Units 4 and 5, placing the baghouses in service before coal fires are initiated will constitute compliance with this paragraph. (If the baghouse inlet temperature cannot achieve 185 degrees Fahrenheit using only gas fires, the owner or operator will not be expected to place baghouses in service before coal fires are initiated; however, the owner or operator will remain subject to the requirements of this paragraph.)

(h) *Enforcement.* (1) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant to whether the Plant 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 the owner or operator 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.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart GG—New Mexico

2. Subpart GG is proposed to be amended by adding § 52.1641 to read as follows:

§ 52.1641 Federal Implementation Plan for Four Corners Power Plant, Navajo Nation.

The Federal Implementation Plan regulating emissions from the Four

Corners Power Plant near Farmington, New Mexico is codified at 40 CFR 49.21.

[FR Doc. 99-23277 Filed 9-7-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 229-0177; FRL-6433-9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Ventura County Air Pollution Control District, Project XL Site-specific Rulemaking for Imation Corp. Camarillo Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions, and are applicable only to the Imation Corp. facility in Camarillo, CA (Imation) as part of the EPA's Imation XL Project. See 64 FR 37785, July 13, 1999. By this document, EPA solicits comment on the proposed rule.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act) and to facilitate implementation of the XL Project at Imation. Such implementation will result in superior environmental performance and, at the same time, provide Imation with greater operational flexibility.

EPA's final action on this proposed rule will incorporate the rule into the federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Comments must be received on or before October 8, 1999.

ADDRESSES: *Comments.* Written comments should be submitted in duplicate to: David Albright, Permits Office (AIR-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Docket. A docket containing supporting information used in developing this rulemaking, including copies of the State submittal, the rule, and EPA's evaluation report of the rule

are available for public inspection and copying at U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA during normal business hours. Copies of the rule and related documents are also available for inspection at the following location: Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA.

FOR FURTHER INFORMATION CONTACT: David Albright, Permits Office (AIR-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1627 or Daniel Reich, Office of Regional Counsel (RC-2-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1343. In addition, the proposed rule and supporting documents are also available on the world wide web at the following location: <http://www.epa.gov/ProjectXL>.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being proposed for approval into the California SIP is Ventura County Air Pollution Control District, VCAPCD, Rule 37 "Project XL." This rule was submitted by the California Air Resources Board to EPA on July 30, 1999.

II. Background

The proposed California SIP revision is designed to implement a pilot project developed under Project XL, an important EPA initiative to allow regulated entities to achieve better environmental results at less cost. Project XL—for "eXcellence and Leadership"—was announced on March 16, 1995, as a central part of the National Performance Review's and EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). In addition, on April 22, 1997, EPA modified its guidance on Project XL, solicited new XL proposals, clarified EPA definitions, and described changes intended to bring greater efficiency to the process of developing XL projects. See 62 FR 19872 (April 22, 1997). The Imation XL Project was the subject of a recent **Federal Register** notice announcing the proposed implementation of the project, making available the proposed Final Project Agreement (FPA), and soliciting public comment on the FPA and the project overall. See 64 FR 37785, July 13, 1999.

EPA is proposing SIP approval of Rule 37 under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its