

the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVI because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design features, the special conditions would also apply to the other model under provisions of § 21.101.

In addition to complying with the applicable airworthiness regulations and special conditions, the GVI must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. The FAA must also issue a finding of regulatory adequacy pursuant to section 611 of Public Law 92-574, the "Noise Control Act of 1972."

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

#### Novel or Unusual Design Features

The GVI will incorporate the following novel or unusual design features: Digital systems architecture composed of several connected networks. The proposed architecture and network configuration may be used for, or interfaced with, a diverse set of functions, including:

1. Flight-safety related control, communication, and navigation systems (aircraft control domain),
2. Airline business and administrative support (airline information domain),
3. Passenger information and entertainment systems (passenger entertainment domain), and
4. The capability to allow access to or by external sources.

#### Discussion of Proposed Special Conditions

The proposed Model GVI architecture and network configuration may allow increased connectivity to and access by external airplane sources and airline operations and maintenance systems to the aircraft control domain and airline information domain. The aircraft control domain and airline information domain perform functions required for the safe operation and maintenance of the airplane. Previously these domains had very limited connectivity with external sources.

The architecture and network configuration may allow the exploitation of network security vulnerabilities resulting in intentional or unintentional destruction, disruption, degradation, or exploitation of data, systems, and networks critical to the safety and maintenance of the airplane.

The existing regulations and guidance material did not anticipate these types of airplane system architectures.

Furthermore, 14 CFR regulations and current system safety assessment policy and techniques do not address potential security vulnerabilities, which could be exploited by unauthorized access to airplane systems, data buses, and servers. Therefore, these special conditions and a means of compliance are proposed to ensure that the security (*i.e.*, confidentiality, integrity, and availability) of airplane systems is not compromised by unauthorized wired or wireless electronic connections.

#### Applicability

As discussed above, these proposed special conditions are applicable to the GVI. Should Gulfstream apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these proposed special conditions would apply to that model as well.

#### Conclusion

This action affects only certain novel or unusual design features of the GVI. It is not a rule of general applicability.

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

#### The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the GVI airplanes.

1. The applicant must ensure electronic system security protection for the aircraft control domain and airline information domain from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that electronic system security threats from external sources are identified and assessed, and that effective electronic system security protection strategies are implemented to protect the airplane from all adverse impacts on safety,

functionality, and continued airworthiness.

Issued in Renton, Washington, on February 15, 2011.

**KC Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 49

[EPA-R09-OAR-2010-0683; FRL-9269-4]

#### Supplemental Proposed Rule of Source Specific Federal Implementation Plan for Implementing Best Available Retrofit Technology for Four Corners Power Plant: Navajo Nation

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

**ACTION:** Supplemental proposed rule.

**SUMMARY:** On October 19, 2010, the Environmental Protection Agency (EPA) published a proposal to promulgate a source specific Federal Implementation Plan (FIP) requiring the Four Corners Power Plant (FCPP), located on the Navajo Nation, to achieve emissions reductions required by the Clean Air Act's Best Available Retrofit Technology (BART) provision. On November 24, 2010, Arizona Public Service (APS) acting on behalf of FCPP's owners submitted a letter to EPA offering an alternative proposal to reduce visibility-impairing pollution. In this action, EPA is supplementing our October 19, 2010 BART proposal with our technical evaluation of APS' alternative proposal. We are proposing to find that a different alternative emissions control strategy would achieve more progress than EPA's BART proposal towards achieving visibility improvements in the surrounding Class I areas.

**DATES:** Comments on this supplemental proposed rule must be submitted no later than May 2, 2011.

Open houses and public hearings will be held on the following dates:

- Shiprock Chapter, Shiprock, New Mexico—March 29, 2011;
- Nenahnezad Chapter, Fruitland, New Mexico—March 30, 2011;
- Farmington, New Mexico—March 30, 2011;
- Durango, Colorado—March 31, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2010-0683, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

*E-mail:* [r9air\\_fcpcbart@epa.gov](mailto:r9air_fcpcbart@epa.gov).

*Mail or deliver:* Anita Lee (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

*Hearings:* EPA is holding public hearings in four locations in the Four Corners area to accept oral and written comments on our October 19, 2010 proposed rulemaking and this supplemental proposed rule. See the **SUPPLEMENTARY INFORMATION** for further information on the hearings.

The open houses and public hearings will be held at the following locations:

Shiprock Chapter, Shiprock, New Mexico—March 29, 2011, Open House from 3 p.m.–6 p.m. and Public Hearing from 7 p.m.–9 p.m. local time, Phil L. Thomas Performing Arts Center, Highway 64 West, Shiprock, New Mexico, 87420, (505) 368-2490;

Nenahnezad Chapter, Fruitland, New Mexico—March 30, 2011, combined Open House and Public Hearing from 9 a.m.–1 p.m. local time, Nenahnezad Chapter House, Multi-Purpose Room, Highway 64 to County Road 6675 to end of Navajo Route 365, (505) 960-9702;

Farmington, New Mexico—March 30, 2011, Open House from 3 p.m.–5 p.m. and Public Hearing from 6 p.m.–9 p.m. local time, San Juan College, Henderson Fine Arts Building Rooms 9006 and 9008, Farmington, New Mexico, 97402, (505) 326-3311;

Durango, Colorado—March 31, 2011, Open House from 3 p.m.–5 p.m. and Public Hearing from 6 p.m.–9 p.m. local time, Fort Lewis College, Center of

Southwest Studies Lyceum Room, 1000 Rim Drive, Durango, Colorado, 81301, (970) 247-7456.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). 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.

**FOR FURTHER INFORMATION CONTACT:** Anita Lee, EPA Region IX, (415) 972-3958, [r9air\\_fcpcbart@epa.gov](mailto:r9air_fcpcbart@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we”, “us”, and “our” refer to EPA.

EPA is providing 30 days advance notice of our scheduled hearings and opening a comment period on this supplemental proposed rule that extends from the publication date of this document until May 2, 2011, which is 30 days after our last scheduled hearing, resulting in more than 60 days to comment on this supplemental proposed rule. On December 8, 2010, EPA extended the comment period for our October 19, 2010 BART proposal until March 18, 2011. EPA is accepting comment on both proposals concurrently. Accordingly, in this action, EPA is also extending the public comment period on the October 19, 2010 BART proposal until May 2, 2011.

EPA will not respond to comments during the public hearing. When we publish our final action, we will provide written responses to all oral and written comments received on our October 19, 2010 proposal and on this supplemental proposed rule. To provide opportunities for questions and discussion, EPA will hold open houses prior to, or concurrently with, the public hearings. During these open houses, EPA staff will be available to informally answer questions on our proposed action and this supplemental proposed rule. Any comments made to EPA staff during the open houses must still be provided formally in writing or orally during a public hearing in order to be considered in the record.

Oral testimony may be limited to 5 minutes for each commenter to address the proposal or this supplemental proposed rule. We will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. Any person may

provide written or oral comments, in English or Diné, and data pertaining to our proposal at the Public Hearing. English-Diné translation services will be provided at both the Open Houses and the Public Hearings in Shiprock, Fruitland, and Farmington. English-Diné translation services will not be provided at the Durango Open House and Public Hearing unless it is requested by March 14, 2011. If you require a reasonable accommodation, by March 14, 2011, please contact Anita Lee using one of the methods provided in the **ADDRESSES** section of this supplemental proposed rule. Verbatim transcripts, in English, of the hearings and written statements will be included in the rulemaking docket.

The public hearings for the three evening events are scheduled to close at 9 p.m., but may close later, if necessary, depending on the number of speakers wishing to participate.

If you are unable to attend the public hearings but wish to submit written comments on the proposed rule or this supplemental proposed rule, you may submit comments, identified by docket number EPA-R09-OAR-2010-0683, by one of the following methods listed in the **ADDRESSES** section.

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**I. Background and Summary**

EPA’s proposed BART determination, which was published on October 19, 2010, provided a thorough discussion of the legal and factual background concerning our proposed BART rulemaking and FCPP. 75 FR 64221. APS is the sole owner of Units 1–3, a partial owner of Units 4 and 5, and the operator of FCPP. APS provided an initial response to EPA’s BART proposal during a meeting on November 9, 2010 and by letter dated November 24, 2010. The initial response indicated that APS had reached an agreement on November 8, 2010, to purchase the ownership interest in Units 4 and 5 from Southern California Edison (SCE). APS further announced that upon final authorization of purchasing SCE’s interest in Units 4 and 5, APS would begin a process to shut down Units 1–3 that would be completed by the beginning of 2014. In addition, upon final authorization, APS would commence work in 2014 to install SCR on Units 4 and 5 with a schedule for the SCR to be fully installed and operational on both units by 2018. APS proposed a NO<sub>x</sub> emissions limit of 0.11 lb/MMBtu, to be achieved by the end of 2018. APS justified requesting its schedule of 2014 to shut down Units 1–3 and 2018 to

install SCR on Units 4 and 5 based on its need to secure several Federal, State, and Tribal authorizations to execute this alternative emissions control strategy.

According to APS’ calculations, under their alternative strategy, FCPP would, beginning in 2019, emit 2,650 tons per year (tpy) less NO<sub>x</sub> pollution than under EPA’s October 19, 2010 BART proposal. APS also provided a summary of the significant annual and cumulative (through 2037) reductions of NO<sub>x</sub>, sulfur dioxide (SO<sub>2</sub>), particulate matter (PM), mercury (Hg), water use, and carbon dioxide (CO<sub>2</sub>) that would result from shutting down Units 1–3 and operating SCR on Units 4 and 5. EPA’s October 19, 2010 BART proposal did not require reductions of SO<sub>2</sub>, Hg, or CO<sub>2</sub> emissions or reductions in water use.

APS states that revenue associated with operating FCPP comprises roughly 35% of the Navajo Nation’s general fund. FCPP and the mine supplying the coal provide about 1,000 jobs, the majority of which are filled by Native American employees. FCPP and the mine also pay significant taxes and generate other revenue for the area.

APS requested APS to submit the emissions calculations and modeling files supporting the conclusions APS set forth in its letter of November 24, 2010. APS submitted those emissions calculations and modeling files to EPA on November 29, 2010 and December 3, 2010. The emission calculation spreadsheet is available in our electronic docket (EPA–R09–OAR–2010–0683, document number 0080.1—identified as an xlsx file), and the

modeling files are available upon request.

EPA has conducted its own technical analysis of the alternative proposal APS put forward on November 24, 2010. Our analysis, as described in this supplemental proposed rule, finds that an alternative emission control strategy to shut down Units 1–3 by 2014 and operate SCR on Units 4 and 5 by July 31, 2018 to achieve a more stringent but still feasible NO<sub>x</sub> emission limit of 0.098 lb/MMBtu will result in greater visibility improvement than both EPA’s October 19, 2010 BART proposal and November 24, 2010 APS’ alternative proposal.<sup>1</sup> Our analysis differs in some respects from APS regarding the emissions benefit and visibility improvement from APS’ proposal. However, when viewing the combined short term and long term effect of the alternative emission control strategy, EPA is proposing to find that shutting down Units 1–3 in 2014 and operating SCR on Units 4 and 5 by July 31, 2018 will result in greater visibility improvement at the surrounding Class I areas.

FCPP is comprised of five coal-fired units of different sizes and ownership. Ownership of Units 4 and 5, the two largest units at FCPP at 750 MW each, is currently shared between six entities—SCE, APS, Public Service Company of New Mexico (PNM), Salt River Project (SRP), El Paso Electric Company (EPEC), and Tucson Electric Power (TEP). Table 1 provides a brief summary of characteristics of the five units.

TABLE 1—SUMMARY OF UNITS 1–5

	Unit 1	Unit 2	Unit 3	Unit 4	Unit 5
Year Operation Began .....	1963	1963	1964	1969	1970
Capacity (MW) .....	170	170	220	750	750
Heat Input Rate (MMBtu/hr) .....	1,863	1,863	2,400	7,411	7,411
NO <sub>x</sub> Baseline emission rate (lb/MMBtu) .....	0.78	0.64	0.59	0.49	0.49
PM Baseline emission rate (lb/MMBtu) .....	0.025	0.029	0.029	0.014	0.010
Ownership .....	APS—100%			SCE—48%, APS—15%, PNM—13%, SRP—10%, EPEC—7%, TEP—7%.	

Table 2 provides a summary of the annual and cumulative emissions and water use reductions that will result from APS’ proposal. Table 2 shows the

emission reductions as stated by APS in its submittal, however, for the cumulative NO<sub>x</sub> emissions reduced, EPA believes with the correction of an

evident calculation error on the part of APS this value should be 388,416 tons (16,184 tons per year × 24 years), not 104,958.

<sup>1</sup> EPA’s revisions to APS’ proposal is referred to throughout this notice as “the alternative emission control strategy”.

TABLE 2—EMISSION REDUCTIONS ACHIEVED BY CLOSING UNITS 1–3, REPRODUCED FROM APS' NOVEMBER 24, 2010 SUBMITTAL<sup>2</sup>

	Annual	Cumulative
NO <sub>x</sub> (tons) .....	16,184	104,958
SO <sub>2</sub> (tons) .....	2,852	68,448
PM (tons) .....	678	16,272
Hg (pounds) .....	361	8,664
Water use (acre-feet) .....	6,000	144,000
CO <sub>2</sub> (million tons) .....	5.2	125

## II. Legal Background for Proposing To Approve APS' Alternative Emission Control Strategy as Achieving Better Progress Towards the National Visibility Goal

Section 169A(b)(2) of the Clean Air Act requires a complete implementation plan for visibility improvement to contain such emissions limits, schedules of compliance, and other measures that may be necessary to make reasonable progress towards the national visibility goal. The implementation plan provisions must include, as appropriate, BART under CAA section 169A(b)(2)(A) and a long term strategy under CAA section 169A(b)(2)(B).

In 1991, EPA considered a factual situation similar to the circumstances at hand. EPA had published a proposed rule requiring the owners and operators of Navajo Generating Station (NGS) to install emissions controls to reduce SO<sub>2</sub> emissions because those emissions from NGS were shown to impair visibility in the Grand Canyon National Park. 55 FR 5173 (Feb. 8, 1991). The proposed rulemaking included an SO<sub>2</sub> emission limit, based on analysis of several different levels of SO<sub>2</sub> reduction, as BART pursuant to authority in CAA Section 169A(b)(2)(A). 56 FR 5178. Before EPA finalized the rule, the owner and operator of NGS, along with several environmental groups, submitted an alternative plan to EPA. The alternative plan would provide greater emissions reductions of SO<sub>2</sub> at a lower cost than EPA's proposed rule. EPA published a Supplemental Notice seeking comments on the alternative plan. 56 FR 38399 (Aug. 13, 1991).

In the NGS Supplemental Notice, EPA examined its legal authority under Section 169A(b)(2). *Id.* Appendix B. EPA noted that in crafting the visibility reasonable progress requirements,

Congress did not explicitly address, and apparently did not even consider, whether

there could be greater visibility improvement at a lower cost in furtherance of the national goal through an implementation plan provision that relied more generally on subsection (b)(2), rather than on specific provisions of subparagraph (A) and/or subparagraph (B). Where Congress has not directly spoken to the precise question at issue, EPA may make a reasonable construction of the statute that is appropriate in the context of the particular program at issue. *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–45 (1984).

*Id.* at 38403. EPA evaluated the alternative plan and agreed that it would provide greater visibility improvement at lower cost than EPA's proposed BART rulemaking. EPA's Supplemental Notice stated:

Based on the staff conclusions regarding the factual circumstances of this case, EPA could reasonably find that the present alternative, with its higher expected visibility improvement and lower expected costs (in comparison to the February 1991 proposed rule), best fulfills the overarching statutory requirement in section 169A(b)(2)(which incorporates the more specific provisions of subparagraphs (A) and (B)) that implementation plan revisions adopted under subparagraphs 169A make "reasonable progress" toward the national visibility goal.

*Id.*

EPA finalized the proposed rule for NGS in October 1991. 56 FR 50172 (Oct. 3, 1991). In the final rule, EPA adopted the rationale from the August 1991 Supplemental Notice that EPA had legal authority under section 169A(b)(2) to finalize an alternative to BART provided it made greater reasonable progress towards the national visibility goal. *Id.* at 50177.

The Central Arizona Project (CAP) petitioned the Ninth Circuit Court of Appeals to review EPA's final rule. The Ninth Circuit issued an opinion on March 25, 1993, upholding EPA's legal authority to finalize an alternative to BART as making reasonable progress where that alternative resulted in greater visibility improvement at a lower cost. *Central Arizona Water Conservation District v. United States Environmental Protection Agency*, 990 F.2d 1531 (9th Cir. Mar. 25, 1993). The Court noted that "[u]nder the unique circumstances of

this case, however, EPA chose not to adopt the emission control limits indicated by BART analysis, but instead to adopt an emission limitations standard that would produce greater visibility improvement at a lower cost." *Id.* at 1543. The Court then held:

Since the Act itself is ambiguous on the specific issue, we apply the Supreme Court's deferential standard from *Chevron* and hold that the agency's reliance on the "reasonable progress" provisions is a "permissible construction of the statute," 467 U.S. at 843, 104 S.Ct. at 2782, since "reasonable progress" is the overarching requirement that implementation plan revisions under 42 U.S.C. 7491(b)(2) must address.

*Id.*

EPA revised its regulations implementing sections 169A and 169B of the CAA in several iterations beginning in 1999. Among other things, the 1999 Regional Haze Rule codified the gap-filling approach EPA used in the 1991 NGS rulemaking. 64 FR 35714, 35739 (July 1, 1999). The Regional Haze Rule requires a State or Tribe to submit an implementation plan containing either emission limitations representing BART, 40 CFR 308(e)(1), or other alternative measures that will achieve greater reasonable progress than would have resulted from BART, 40 CFR 308(e)(2). EPA anticipated at the time that "the most likely alternative measures adopted \* \* \* will be an emissions trading program," 64 FR at 35743, but did not limit the States or Tribes to such an approach. The requirements for alternative programs designed to achieve better than BART are established at 40 CFR 51.308(e)(2).

The EPA modified the regulations addressing alternatives to source-specific BART requirements in 2005 and again in 2006. In 2005, EPA established specific criteria for determining whether a trading program or other alternative measures provides for greater reasonable progress. 70 FR 39104 (July 6, 2005). To assess whether an alternative meets this core requirement, States and Tribes must first consider the distribution of emissions that would result from BART as compared to the alternative. The regulations provide that

<sup>2</sup> Annual emissions are based on APS' current emissions reported to EPA. Cumulative emissions are based on APS's proposal from 2014 to 2037 prior to end of new lease (24 year period).

[i]f the distribution of emissions is not substantially different than under BART, and the alternative measure results in greater emissions reductions, then the alternative measures may be deemed to achieve greater reasonable progress.

40 CFR 51.308(e)(3). Where the alternative would result in a different distribution of emissions, the regulations require dispersion modeling to determine differences in visibility between BART and the trading program and establish a test against which to measure the results of the modeling. *Id.*

In 2006, EPA again revised the Regional Haze Rule, focusing on regulatory issues associated with the use of an emissions trading program as an alternative to BART. In this rulemaking, EPA allowed for a less prescriptive approach to determining whether an alternative program provides for greater reasonable progress based on the clear weight of evidence. 40 CFR 51.308(e)(2)(i)(E). 71 FR 60612 (Oct. 13, 2006).

To meet the requirement of the Regional Haze Rule that all necessary emission reductions take place during the period of the first long-term strategy for regional haze, if APS elects to implement this alternative emission control strategy, EPA is proposing to require Units 4 and 5 to comply with the 0.098 lb/MMBtu NO<sub>x</sub> emission limit by July 31, 2018, five months earlier than APS' proposed schedule for complete SCR installation and operation.

In today's supplemental proposed rule, EPA is proposing to find, based on the weight of evidence, that a final rule requiring APS to shut down Units 1–3 by 2014 and install and operate SCR on Units 4 and 5 by July 31, 2018 will result in greater reasonable progress towards the national visibility goal under section 169A(b)(2) than EPA's October 19, 2010 BART proposal. Therefore, EPA is proposing to add regulatory language to the proposed BART rule for FCPP that allows APS the option to implement its alternative emissions control strategy in lieu of EPA's BART determination.

### III. EPA's Technical Analysis of Better Reasonable Progress Towards National Visibility Goal

Units 1–3 comprise approximately 27% of the electricity-generating capacity at FCPP; however, Units 1–3 contribute disproportionately to facility-wide emissions of NO<sub>x</sub> (36%), PM (43%), and Hg (61%). The alternative emissions control strategy of shutting down Units 1–3 will consequently result in substantial emissions reductions at FCPP of all pollutants

emitted by those units, particularly NO<sub>x</sub>, PM, and Hg. See Table 2.

As discussed below, this supplemental proposed rule proposes to require Units 4 and 5, by July 31, 2018, to meet a lower NO<sub>x</sub> emission limit than APS' proposal, five months earlier than proposed by APS. In this supplemental proposed rule, EPA is proposing to approve this EPA revision of APS' proposal as an alternative to BART because it demonstrates better reasonable progress towards the national visibility goal. Our evaluation shows that the alternative emissions control strategy will provide greater visibility improvement at all 16 Class I areas than EPA's BART proposal. See 40 CFR 51.308(e). We discuss our proposed NO<sub>x</sub> emissions limit for Units 4 and 5 first because our subsequent analysis of the emissions reductions and visibility improvements rely in part on that limit. We will also briefly evaluate associated non-visibility environmental benefits from the alternative emission control strategy. Finally, we propose to retain and revise our October 19, 2010 BART proposal, with a revision described below regarding phase-in of new controls, as a contingent rule if APS does not implement its alternative emissions control strategy.

By letter dated January 25, 2011, the National Parks Conservation Association, Black Mesa Water Coalition, Dine Care, Center for Biological Diversity, Heal Utah, Grand Canyon Trust, Natural Resources Defense Council, San Juan Citizens Alliance, Sevier Citizens for Clean Air & Water, Sierra Club and WildEarth Guardians submitted comments on EPA's BART proposal and the proposal APS outlined in its November 24, 2010 letter to EPA. The letter from the consortium of environmental groups requested EPA to require lower emission limits for several pollutants emitted by FCPP. EPA considers the January 25, 2011 letter a comment, which we have posted to our docket and will provide a response to in our final rulemaking.

#### A. Estimated NO<sub>x</sub> Emissions Reductions

##### 1. Proposed NO<sub>x</sub> Emission Limit To Apply on Units 4 and 5 With Installation of SCR by July 31, 2018

EPA's October 19, 2010 BART proposal provided for a facility-wide heat input-weighted emission limit for FCPP's Units 1-5 of 0.11 lb/MMBtu on a 30-day rolling average basis.<sup>3</sup> EPA determined that FCPP could achieve

<sup>3</sup> The BART guidelines at 40 CFR part 51 appendix Y, require averaging times for EGUs be based on a 30-day rolling average.

this limit by reducing NO<sub>x</sub> emissions from each of its five units by 80%. The limit we proposed in our October 19, 2010 BART proposal did not include or rely on combustion controls, *i.e.*, new Low-NO<sub>x</sub> burners (LNB). As described in more detail in our October 19, 2010 proposal (75 FR 64221), and the technical support document for the proposal, the original cell boiler design of Units 4 and 5 is difficult to retrofit with modern LNB technology, and even if combustion controls might result in some improvement in NO<sub>x</sub> performance, the potential operational problems were not worth the small incremental reduction in NO<sub>x</sub> emissions. EPA proposed to provide a plant-wide limit to allow flexibility to FCPP to accommodate anticipated SCR retrofit challenges associated with the small fireboxes for Units 1–3.

EPA has evaluated the NO<sub>x</sub> emission limit we consider achievable under APS' alternative emissions control strategy. In APS' calculations for its November 24, 2010 proposal, APS assumed that under its proposed strategy, Units 4 and 5 would meet a limit of 0.11 lb/MMBtu with installation and operation of SCR, not an 80% reduction from the Unit 4 and 5 baseline of 0.49 lb/MMBtu. If we apply an 80% emissions reduction solely to Units 4 and 5, APS should be able to achieve a NO<sub>x</sub> limit of 0.098 lb/MMBtu for each unit. Our calculations are based on average baseline emissions from Units 4 and 5 of 0.49 lb/MMBtu each, reduced by a conservative estimate of 80% control of baseline emissions.

In calculating the NO<sub>x</sub> emission limit of 0.098 lb/MMBtu, EPA is taking into account the degradation of the SCR catalyst over its lifetime resulting in the need for periodic replacement to maintain its activity and performance. Historically, FCPP units are scheduled for outages only once every three years. Based on this, EPA anticipates that APS will change out its catalyst on the historic outage schedule and the new catalyst will be installed every three years. EPA has calculated the 30-day emission limit (0.098 lb/MMBtu) to reflect the capability of the catalyst to reduce NO<sub>x</sub> at the end of this three year period.

EPA has also determined that pursuing higher levels of NO<sub>x</sub> reduction efficiency (*i.e.*, greater than 80%) from SCR on Units 4 and 5 is limited by the formation of sulfuric acid (H<sub>2</sub>SO<sub>4</sub>) from the SCR catalyst.<sup>4</sup> Although more layers

<sup>4</sup> The SCR catalyst can oxidize sulfur dioxide (SO<sub>2</sub>) to sulfur trioxide (SO<sub>3</sub>, which, in the presence of water vapor, forms sulfuric acid) (H<sub>2</sub>SO<sub>4</sub>) aerosol, which causes visibility impairment.

of catalyst could be used in the SCR unit to further enhance NO<sub>x</sub> removal, the presence of additional catalyst would result in higher emissions of sulfuric acid, which is also a visibility-impairing pollutant. Minimizing the formation of primary SO<sub>3</sub>/H<sub>2</sub>SO<sub>4</sub> in the catalyst bed is most important for visibility improvement at Mesa Verde National Park, the closest Class I area to FCPP. Primary SO<sub>3</sub>/H<sub>2</sub>SO<sub>4</sub> formed on the SCR catalyst would be capable of impairing visibility immediately after release into the atmosphere, whereas SO<sub>2</sub> emissions need time and distance to convert to sulfuric acid or particulate ammonium sulfate before these emissions impact visibility.

Finally, the achievable NO<sub>x</sub> emission limit for FCPP is affected by the high ash content in the coal burned by FCPP. The ash content is approximately 25%, which may adversely affect the capability of SCR to reach the highest end of the control efficiency range achieved at other power plants without the use of additional layers of catalyst or more frequent catalyst replacement.

For these reasons, EPA is proposing to require a NO<sub>x</sub> emission limit in this supplemental proposed rule of 0.098 lb/MMBtu. We are proposing to approve the alternative emission control strategy requiring Units 1–3 to shut down by January 1, 2014 and Units 4 and 5 to meet an 80% NO<sub>x</sub> reduction, with a limit of 0.098 lb/MMBtu, by July 31, 2018. This emission limit can be met by installation of SCR.

EPA is requesting comment on whether to provide FCPP with additional flexibility for meeting the 0.098 lb/MMBtu (30-day rolling average) limit by setting the limit as a heat-input weighted limit for Units 4 and 5,<sup>5</sup> similar to our BART proposal on October 19, 2010 which set a plant-wide heat-input-weighted limit for Units 1–5. EPA is also requesting comment on whether our final rule should also set a lower NO<sub>x</sub> emission limit that would be averaged over a longer averaging time to reflect the capability of the SCR when the catalyst is fresher at the beginning of the three-year outage schedule. Therefore, EPA is requesting comment on whether an additional, more stringent (i.e., lower than 0.098 lb/MMBtu) heat-input-weighted emission limit, representing greater than 80% control, and averaged over one or three years would be appropriate to assure the optimized operating efficiency for an SCR-controlled unit where EPA

anticipates a three-year replacement of the catalyst.<sup>6</sup> A heat-input-weighted limit averaged over one year could reflect the capability over the third year of the catalyst in use in either unit. A three-year average on an individual unit would reflect the capability of the catalyst to reduce NO<sub>x</sub> over its entire duration of use. EPA anticipates that the most stringent numerical limit would be for a single-unit limit on a 3-year rolling average. Under either of these approaches, the emission limit would be set such that the facility would be required to inject sufficient ammonia to maximize the reduction of the NO<sub>x</sub> no matter what the age of the catalyst.<sup>7</sup>

## 2. Alternative Emissions Control Strategy Will Result in Greater Visibility Improvement Than BART

As noted above, EPA's BART proposal was for a facility-wide heat input-weighted NO<sub>x</sub> emission limit on Units 1–5 of 0.11 lb/MMBtu on a 30-day rolling average basis.<sup>8</sup> If EPA were to finalize its BART proposal, the facility-wide NO<sub>x</sub> emission limit would apply 5 years after the effective date of the final rule. To evaluate the alternative emissions control strategy, EPA is assuming that the earliest possible effective date for a final BART rule for FCPP would be January 1, 2012. This means that FCPP would be required to meet the facility-wide 0.11 lb/MMBtu NO<sub>x</sub> emission limit beginning in 2017. APS calculated this to mean that in 2017 the total that could be emitted from Units 1–5 under EPA's BART proposal would be 9,184 tpy NO<sub>x</sub> (See item number 0080.1 in the docket for this rulemaking: "Emissions calculations from APS for its Alternative Proposal 11–29–10.xlsx").

APS is proposing to reduce NO<sub>x</sub> (and other pollutants) by shutting down Units 1–3 by January 1, 2014, three years earlier than would be achieved by EPA's BART proposal. Because of these shutdowns, APS projected that NO<sub>x</sub>

emissions from FCPP, under its proposed alternative, during 2014–2016 would be lower than would be emitted in those years under EPA's October 19, 2010 proposal. However, under the alternative emission control strategy, emissions in 2017 and 2018 would be higher than in EPA's October 19, 2010 proposal, because APS would not achieve its final NO<sub>x</sub> reductions until the beginning of 2019. Under APS' proposal, beginning in 2019, Units 4 and 5 would meet an emission limit of 0.11 lb/MMBtu, resulting in total emissions of 6,498 tpy NO<sub>x</sub>. Therefore, APS' proposal would produce approximately 30% less NO<sub>x</sub> emissions per year than EPA's BART proposal beginning in 2019.

In contrast to APS' proposal to meet a limit of 0.11 lb/MMBtu by the end of 2018, EPA is proposing as the alternative emission control strategy to require a lower NO<sub>x</sub> emission limit of 0.098 lb/MMBtu beginning July 31, 2018. EPA is proposing a compliance date five months earlier than APS' proposal in order to meet the requirement of the Regional Haze Rule that all necessary emission reductions for an alternative measure take place during the period of the first long-term strategy for regional haze.<sup>9</sup> 40 CFR 51.308(e)(2)(iii). Under this alternative control strategy, total annual emissions of NO<sub>x</sub> from FCPP at 0.098 lb/MMBtu would be 5,798 tpy. EPA's emissions calculations are included in the docket for this proposed rulemaking (see "EPA comparison of BART and alternative 2–3–11.xlsx"). If EPA finalizes a rule requiring APS to implement EPA's alternative emissions control strategy with a NO<sub>x</sub> emission limit of 0.098 lb/MMBtu, FCPP would produce approximately 37% less NO<sub>x</sub> emissions per year than under EPA's BART proposal.

The alternative emissions control strategy would realize the 37% greater NO<sub>x</sub> emissions reductions two years later than would potentially result from EPA's BART proposal, but within the period of the first long-term strategy for regional haze. Our evaluation, supported by the modeled visibility improvements discussed in Section C, is that significantly lower NO<sub>x</sub> emissions from FCPP occurring within the period of the first long term strategy and continuing on into the future, but occurring two years later than could potentially occur through EPA BART proposal, will achieve better reasonable

<sup>6</sup> This more stringent numerical NO<sub>x</sub> limit with the longer averaging time could reflect the capability of the catalyst over a more extended period than a short term limit that accommodates deterioration of catalyst activity just before new catalyst is installed.

<sup>7</sup> Although ammonia also contributes to visibility impairment, as discussed in the Technical Support Document for our October 29, 2010 proposal, ammonia slip from the SCR is expected to react with SO<sub>3</sub>/H<sub>2</sub>SO<sub>4</sub> in the flue gas to form particulate ammonium sulfate or bisulfate, which would be captured by the downstream air preheaters, scrubbers, and baghouses.

<sup>8</sup> For PM, EPA proposed an emission limit of 0.012 lb/MMBtu to Units 1–3 and 0.015 lb/MMBtu on Units 4 and 5. The limit on Units 1–3 would be achievable by installing and operating new particulate controls on those units, such as new electrostatic precipitators or baghouses, and by proper operation of the existing baghouses on Units 4 and 5.

<sup>5</sup> The heat-input-weighted limit would be based on the heat input generated by each individual unit, rather than the rated capacity, which is identical for Units 4 and 5.

<sup>9</sup> The Regional Haze Rule requires revisions to regional haze implementation plans be submitted to EPA by July 31, 2018 and every ten years thereafter. This date marks the end of the first long term strategy period.

progress towards the Clean Air Act’s national visibility goal.  
The amount by which NO<sub>x</sub> will be reduced between 2014 and 2019 is

somewhat less certain because of differing assumptions used in APS’ and EPA’s evaluations. APS compared NO<sub>x</sub> emissions for each year from 2014 until

2019 under its proposal against EPA’s October 19, 2010 BART proposal as reproduced in Table 3.

TABLE 3—APS’ COMPARISON OF NO<sub>x</sub> EMISSIONS (TONS) BASED ON EPA BART PROPOSAL AND APS ALTERNATIVE PROPOSAL, REPRODUCED FROM NOVEMBER 24, 2010 SUBMITTAL FROM APS

	EPA proposal	APS proposal
2014 .....	45,132	28,948
2015 .....	45,132	28,948
2016 .....	45,132	28,948
2017 .....	9,184	28,948
2018 .....	9,184	28,948
2019 .....	9,184	6,498

The values APS used in Table 3, however, assume that EPA’s BART determination would not have required installation of any NO<sub>x</sub> emissions controls until 2017 and that SCR would become fully operational on all 5 units simultaneously in 2017. Therefore, APS interpreted EPA’s BART proposal to allow NO<sub>x</sub> emissions of 45,132 tpy to continue until the beginning of 2017.

EPA’s BART proposal on October 19, 2010, however, included interim emission limits for the 5 units that

would (if finalized) have applied following a phased-in schedule for SCR installation. Historically FCPP has operated on a 3-year outage cycle for its boilers.<sup>10</sup> Therefore, EPA’s BART proposal assumed that Units 1–3 would be retrofit simultaneously in one outage, Unit 4 would be retrofit in a second annual outage, and Unit 5 would be retrofit in the third annual outage.

Table 4 compares our calculations of the short-term (2014–2019) NO<sub>x</sub> emissions and Table 5 compares our

calculations for short-term (2014–2019) PM emissions, between EPA’s BART proposal, assuming EPA could finalize the interim emissions limits to be effective January 1, 2012,<sup>11</sup> and the alternative emissions control strategy with a final compliance date for installation and operation of SCR on Units 4 and 5 of July 31, 2018.<sup>12</sup> (See “EPA Comparison of BART and Alternative 2–3–11.xlsx” in the docket for this rulemaking).

TABLE 4—EPA’S COMPARISON OF NO<sub>x</sub> EMISSIONS (TONS) BASED ON EPA BART PROPOSAL AND THE ALTERNATIVE EMISSION CONTROL STRATEGY

	EPA BART proposal	Alternative emission control strategy	Proposal with lower emissions
2012 .....	45,132	45,132	Same.
2013 .....	45,132	45,132	Same.
2014 .....	45,132	28,947	Alternative.
2015 .....	33,908	28,947	Alternative.
2016 .....	22,074	28,947	EPA BART.
2017 .....	9,026	28,947	EPA BART.
2018 .....	9,026	19,302	EPA BART.
2019 and beyond .....	9,026	5,798	Alternative.

TABLE 5—EPA’S COMPARISON OF PM EMISSIONS (TONS) BASED ON EPA BART PROPOSAL AND THE ALTERNATIVE EMISSION CONTROL STRATEGY

	EPA BART proposal	Alternative emission control strategy	Proposal with lower emissions
2012 .....	1,564	1,564	Same.
2013 .....	1,564	1,564	Same.
2014 .....	1,564	886	Alternative.
2015 .....	1,564	886	Alternative.
2016 .....	1,179	886	Alternative.
2017 .....	1,179	886	Alternative.
2018 .....	1,179	886	Alternative.
2019 and beyond .....	1,179	886	Alternative.

<sup>10</sup> FCPP is a baseload power plant that operates its boilers year-round at full capacity except during outages. Power plants typically schedule periodic major and minor outages to allow for routine maintenance of its boiler units. To accommodate its five boiler units, EPA understands that the boilers at FCPP are on a three-year major outage cycle, with

Units 4, 5, and 1–3 alternating major outages every 3 years.

<sup>11</sup> The interim limits that EPA included in the proposed BART rule included a larger margin of compliance with the interim limits to provide APS the flexibility to develop strategies for meeting the plant-wide limit of 0.11 lb/MMBtu by 2017 in ways

other than achieving 80% reduction equally on all units.

<sup>12</sup> The annual emissions in both Tables 2 and 4 are likely overestimated because they do not account for zero emissions from an individual unit (or set of units) when it is not operating during its scheduled outage.

Therefore, if finalized as proposed and effective on January 1, 2012, we estimate that EPA's BART proposal would result in lower NO<sub>x</sub> emissions from 2016–2018, an additional year (2016) compared to APS' calculations that do not account for interim limits. In 2014 and 2015, and beginning in 2019 into the future, the alternative emissions control strategy would result in lower NO<sub>x</sub> emissions than EPA's BART proposal. For PM, starting in 2014, the alternative emission control strategy would always result in lower emissions of PM compared to EPA's BART proposal because of the closure of Units 1–3 in 2014.

In today's supplemental proposed rule, EPA acknowledges that the interim emission limits proposed on October 19, 2010, were based on APS' historic outage schedule and were required to

ensure that the installation of new controls occurred as expeditiously as practicable. APS may have challenged those proposed interim emission limits and requested EPA to finalize a BART rule that allowed installation of SCR on all units simultaneously 5 years after the effective date of the final rule (*i.e.*, in 2017). Thus, if EPA's re-evaluation of the interim limits resulted in a determination that the interim limits were not practicable, the interim emission reductions we estimated over 2015–2016, might not have been realized if the final rule was issued without interim limits. In our October 19, 2010 proposal, EPA also failed to include proposed regulatory language regarding the phased-in SCR installation, a gap which we address in Section D of this supplemental proposed rule.

*B. Benefits in Addition to NO<sub>x</sub> Emissions Reductions*

On November 29, 2010, APS provided to EPA the spreadsheet on which its emission estimates were based. This spreadsheet is included in the docket for the proposed rulemaking (See the spreadsheet posted to the docket for this rulemaking: EPA–R09–OAR–2010–0683.0080.1, “Emissions calculations from APS for its Alternative Proposal 11–29–10.xlsx”). Baseline emissions reported by APS (labeled “status quo” in the spreadsheet) of NO<sub>x</sub>, SO<sub>2</sub>, PM, Hg, and CO<sub>2</sub>, are included in Table 6. Emissions of NO<sub>x</sub>, SO<sub>2</sub>, and PM are reported in tons per year (tpy); Hg emissions are reported in pounds per year (lb/yr); and CO<sub>2</sub> emissions are reported in million tons per year.

TABLE 6—BASELINE EMISSIONS OF NO<sub>x</sub> (TPY), PM (TPY), SO<sub>2</sub> (TPY), HG (LB/YEAR), AND CO<sub>2</sub> (MILLION TPY) REPORTED BY APS

	NO <sub>x</sub>	PM	SO <sub>2</sub>	Hg	CO <sub>2</sub>
Unit 1 .....	5,790	186	748	113	1.6
Unit 2 .....	4,751	215	731	109	1.5
Unit 3 .....	5,643	277	1,373	139	2.1
Unit 4 .....	14,474	443	4,298	117	6.0
Unit 5 .....	14,474	443	4,611	116	6.0

The alternative emission control strategy to shut down Units 1–3 by 2014 not only results in 100% control of NO<sub>x</sub>, but also 100% control of all other pollutants emitted by those units, including SO<sub>2</sub>, PM, Hg and other hazardous air pollutants, and CO<sub>2</sub>, whereas EPA's proposal to install SCR on Units 1–5 and new PM controls on Units 1–3 would only result in 80% and 57%<sup>13</sup> control of NO<sub>x</sub> and PM, respectively.

*C. Modeling and Demonstrating Reasonable Progress*

The Regional Haze Rule requires that implementation plans that rely on an alternative measure to BART demonstrate that the alternative achieves greater reasonable progress than would be achieved through the installation and operation of BART. 40 CFR 51.308(e)(2). The rule further states

that “[i]f the distribution of emissions is not substantially different than under BART, and the alternative measure results in greater emissions reductions, than the alternative measures may be deemed to achieve greater reasonable progress”. 40 CFR 51.308(e)(3). Because the emissions reductions under EPA's October 19, 2010 BART proposal and the alternative emission control strategy proposed in this supplemental proposed rule occur from the same facility, the distribution of emissions under BART and the alternative are not substantially different. Therefore, because the alternative emission control strategy results in greater emissions reductions than our BART proposal, EPA may deem the alternative emission control strategy to achieve greater reasonable progress.

Although an explicit modeling demonstration is not required based on the provisions of 40 CFR 51.308(e)(3), APS provided a modeling analysis demonstrating that its proposed alternative would result in greater visibility improvement than EPA's October 2010 BART proposal. EPA evaluated the modeling submitted by APS and modeled our alternative emission control strategy in comparison to our October 2010 proposal. EPA compared our BART proposal to the alternative emissions control strategy

based on emissions after full SCR installation is complete. For EPA's BART proposal, SCR would have been completed on all units in 2017 if the final BART rule becomes effective in 2012. For the alternative emissions control strategy, EPA is proposing emissions reductions from full SCR installation and operation on Units 4 and 5 be completed by July 31, 2018.

APS provided EPA with the modeling files generated by AECOM.<sup>14</sup> EPA has evaluated those modeling files for this supplemental proposed rule. APS' modeling differs in some minor ways from the modeling used to support EPA's October 19, 2010 BART proposal.

In the Technical Support Document (TSD) for our October 19, 2010 BART proposal, EPA provided the emission rates of various pollutants from each of the five units used in the CALPUFF modeling analysis. These modeling inputs for the SCR control case, in pounds per hour (lb/hr) are included in Table 7 and represent the 24-hour average actual emission rate from the highest emitting day of the meteorological period modeled (2001–2003), consistent with the guidelines

<sup>13</sup> The percent reduction in PM emissions was calculated for Units 1–3 and assumed that imposing an emission limit on Units 4 and 5 would not change the measured emission rates from those units because Units 4 and 5 would continue to be controlled by the existing baghouses. Thus, the PM emission reduction is calculated as a MW-weighted average reduction from Units 1–3, using baseline emissions that range from 0.025 lb/MMBtu (Unit 1) to 0.029 lb/MMBtu (Units 2 and 3), and the proposed post-control BART limit of 0.012 lb/MMBtu on Units 1–3.

<sup>14</sup> Modeling files from APS and EPA modeling analyses are available from EPA upon request. Please see the **FOR FURTHER INFORMATION CONTACT** section of this supplemental proposed rule.



provided in 40 CFR Part 51, Appendix Y (BART Guidelines). The CALPUFF inputs require values for SO<sub>2</sub>, sulfate (SO<sub>4</sub>), NO<sub>x</sub>, secondary organic aerosol (SOA), fine PM, coarse PM, and elemental carbon (EC).

The modeling inputs used by APS in its analysis of its proposal are included in Table 8. APS' emission inputs for NO<sub>x</sub> and PM rely on EPA's proposed 30-day rolling average emission limits

(as shown in Table 40 of our Technical Support Document). These inputs represent 80% control of baseline NO<sub>x</sub> emissions: limit for Unit 1 = 0.16 lb/MMBtu, Unit 2 = 0.13 lb/MMBtu, Unit 3 = 0.12 lb/MMBtu, and Units 4 and 5 = 0.10 lb/MMBtu each; and PM emission rates of 0.012 lb/MMBtu from Units 1–3 and 0.015 lb/MMBtu from Units 4 and 5. APS used the peak 24-hour average emissions when modeling

the Baseline Impact, but used the lower 30-day rolling average emission limits shown in Table 8 to model visibility benefits from controls rather than the highest emitting day average shown in Table 7. Thus, the baseline and SCR control scenarios from APS' modeling are not directly comparable because of the different averaging times of the inputs (24-hour versus 30-day average).

TABLE 7—EPA'S CALPUFF MODELING INPUTS USED FOR OUR OCTOBER 19, 2010 BART PROPOSAL WITH SCR ON UNITS 1–5 AND PM CONTROLS ON UNITS 1–3<sup>15</sup>

	Unit 1	Unit 2	Unit 3	Unit 4	Unit 5
SO <sub>2</sub> .....	522.54	615.12	1042.09	2026.10	2131.85
SO <sub>4</sub> .....	8.57	8.58	11.06	2.24	2.25
NO <sub>x</sub> .....	404.03	319.89	394.16	1003.20	901.71
SOA .....	9.40	9.41	12.13	32.00	32.20
PM fine .....	17.26	20.39	23.60	100.93	48.02
PM coarse .....	13.19	15.58	18.03	77.12	36.69
EC .....	0.66	0.78	0.91	3.88	1.85

TABLE 8—APS' CALPUFF MODELING INPUTS REPRESENTING EPA'S BART PROPOSAL (UNITS 1–5), COMBINING NO<sub>x</sub> AND PM CONTROLS, PROVIDED BY APS TO SUPPORT ITS ALTERNATIVE PROPOSAL (UNITS 4 AND 5 ONLY)

	Units 1 and 2	Unit 3	Units 4 and 5
SO <sub>2</sub> .....	1137.66	1042.09	4157.95
SO <sub>4</sub> .....	17.15	11.06	4.49
NO <sub>x</sub> .....	681.62	363.84	1605.10
SOA .....	18.81	12.13	64.20
PM fine .....	27.71	17.87	122.89
PM coarse .....	11.29	7.28	93.90
EC .....	1.06	0.69	4.72

With respect to other modeling assumptions, APS used the same assumptions that supported EPA's October 19, 2010 BART proposal. APS directly used EPA's modeling inputs for the 1 ppb (IWAQM default) background ammonia scenario from our proposed BART determination and modeled additional scenarios: EPA's BART proposal using emission inputs for Units 1–5 in Table 7, and APS's

proposed alternative using emission inputs from Table 7 for only Units 4 and 5 (with no modeling of Units 1–3 to account for shut down of those units). EPA reviewed APS' emission inputs and modeling files and determined that when APS modeled EPA's October 19, 2010 BART proposal, APS relied on lower NO<sub>x</sub> and PM emissions than EPA used in our proposal. NO<sub>x</sub> emissions modeled by AECOM were 6–16% lower than EPA's modeling values from our

proposal, and PM emissions as modeled by AECOM were 18–60% lower than our proposal. APS estimated that EPA's BART proposal (using the inputs from Table 7) would reduce the impact of FCPP on the 16 Class I areas by an average of 59%. APS modeling showed that its alternative emissions control strategy would reduce the impact of FCPP on the 16 Class I areas by an average of 74% (See Table 8).

TABLE 8—MODELING RESULTS—98TH PERCENTILE DELTA DV IMPROVEMENT AND PERCENT CHANGE IN DELTA DECIVIEW (DV)<sup>16</sup> IMPACT FROM EPA'S BART PROPOSAL AND APS' ALTERNATIVE PROPOSAL COMPARED TO BASELINE IMPACTS FROM 2001–2003 USING 1 PPB AMMONIA BACKGROUND SCENARIO AS MODELED BY AECOM

Class I area	Distance to FCPP	Baseline impact	Improvement from EPA's proposal		Improvement from APS' proposal	
	Kilometers (km)	Delta dv	Delta dv	%	Delta dv	%
Arches National Park .....	245	4.11	2.5	58	3.08	75
Bandelier Wilderness Area .....	216	2.90	1.71	58	2.12	74
Black Canyon of the Gunnison WA .....	217	2.36	1.47	62	1.84	76
Canyonlands NP .....	214	5.24	2.97	54	3.86	72
Capitol Reef NP .....	283	3.23	1.94	54	2.46	72

<sup>15</sup> In our October 2010 BART proposal, we conducted our modeling analyses for NO<sub>x</sub> and PM controls separately. In Table 6, the emission inputs

for NO<sub>x</sub> and SO<sub>4</sub>, from the SCR control case, are combined with inputs for SOA, PM fine, PM coarse, and EC, from the PM control case, for better

comparison with APS's representation of EPA's BART proposal. Emission inputs for SO<sub>2</sub> were identical for the SCR and PM control scenarios.

TABLE 8—MODELING RESULTS—98TH PERCENTILE DELTA DV IMPROVEMENT AND PERCENT CHANGE IN DELTA DECIVIEW (DV)<sup>16</sup> IMPACT FROM EPA'S BART PROPOSAL AND APS' ALTERNATIVE PROPOSAL COMPARED TO BASELINE IMPACTS FROM 2001–2003 USING 1 PPB AMMONIA BACKGROUND SCENARIO AS MODELED BY AECOM—Continued

Class I area	Distance to FCPP	Baseline impact	Improvement from EPA's proposal		Improvement from APS' proposal	
	Kilometers (km)	Delta dv	Delta dv	%	Delta dv	%
Grand Canyon NP .....	345	1.63	0.91	58	1.14	75
Great Sand Dunes NM .....	279	1.16	0.69	63	0.84	76
La Garita WA .....	202	1.72	1.08	63	1.3	77
Maroon Bells Snowmass WA .....	294	1.04	0.65	64	0.79	78
Mesa Verde NP .....	62	5.95	2.67	48	3.57	66
Pecos WA .....	258	2.16	1.19	59	1.55	74
Petrified Forest NP .....	224	1.40	0.69	58	0.93	74
San Pedro Parks WA .....	160	3.88	2.15	55	2.77	72
West Elk WA .....	137	1.87	1.24	64	1.45	77
Weminuche WA .....	245	2.76	1.76	61	2.08	75
Wheeler Peak WA .....	265	1.53	0.88	60	1.12	75
Total Delta dv or Average % Change in Delta dv ....	.....	42.93	24.5	59%	30.9	74%

EPA re-modeled the visibility impact of combined SCR and PM controls as outlined in our October 2010 BART proposal (but were modeled separately in our proposal) and the visibility impact of the alternative emissions control strategy. EPA's emission inputs continued to rely on the peak 24-hour average value over the meteorological period for NO<sub>x</sub>, rather than the 30-day rolling average emission limits used by APS. For PM, emission inputs are based

on our proposed BART emission limits. Our emission inputs are shown in Table 9 and the results of our modeling is shown in Table 10.

Table 9 differs from EPA's values in Table 7 because the combination of PM and NO<sub>x</sub> controls into a single modeling scenario results in lower sulfate emissions because new PM controls on Units 1–3 would provide additional control of the sulfuric acid produced by the SCR system. In estimating the

reduction of sulfuric acid by the new PM controls, EPA chose to use the capture efficiency of a wet ESP (28%) in lieu of a baghouse (90%)<sup>17</sup> because a wet ESP is expected to result in a lower capture rate for sulfuric acid than a baghouse, thus providing a more conservative estimate of the visibility benefits of combined PM and NO<sub>x</sub> controls from EPA's BART proposal.

TABLE 9—EPA'S CALPUFF MODELING INPUTS (LB/HR)<sup>18</sup> REPRESENTING OUR BART PROPOSAL (NO<sub>x</sub> AND PM CONTROLS COMBINED UNITS 1–5) AND APS' ALTERNATIVE PROPOSAL (UNITS 4 AND 5 ONLY WITH NO<sub>x</sub> CONTROLS)

	Units 1 and 2	Unit 3	Units 4 and 5
SO <sub>2</sub> .....	1137.66	1042.09	4157.95
SO <sub>4</sub> .....	12.51	8.07	4.49
NO <sub>x</sub> .....	723.92	394.16	1904.91
SOA .....	18.81	12.13	64.20
PM fine .....	27.70	17.87	122.89
PM coarse .....	11.29	7.28	93.90
EC .....	1.06	0.69	4.72

EPA's modeling analysis shows that our BART proposal, which combines new NO<sub>x</sub> controls to achieve 80% reduction on Units 1–5 and new PM controls on Units 1–3, would reduce FCPP's visibility impact on the 16 Class

I areas by an average of 57%.<sup>19</sup> The alternative emissions control strategy, to shut down Units 1–3 and install SCR on Units 4 and 5, would reduce FCPP's visibility impact on the 16 Class I areas by an average of 72%. Our modeling

analysis of the alternative emissions control strategy shows about 2% lower visibility improvement compared to APS' analysis because we used slightly different emission inputs than APS.<sup>20</sup>

<sup>16</sup> The Baseline Delta dv values represent the visibility impact of FCPP on the given Class I area. Higher Delta dv Improvement values represent a smaller anticipated visibility impact of FCPP on the Class I area after controls are applied, and thus greater percent improvement.

<sup>17</sup> We proposed as BART a PM emission limit of 0.012 lb/MMBtu that could be met by either a wet ESP or a baghouse. We did not specify which control technology must be used to meet the proposed BART limit.

<sup>18</sup> The emission input calculations for this Supplemental Notice are provided in the docket as a spreadsheet titled "FCPP\_Supplemental Emission\_Inputs 01–04–11.xlsx".

<sup>19</sup> In our October 2010 proposal, our separate modeling analyses of the NO<sub>x</sub> and PM controls showed that individually, SCR on Units 1–5 would reduce the visibility impact of FCPP by an average of 57% and PM controls on Units 1–3 by less than 1%.

<sup>20</sup> EPA's inputs for NO<sub>x</sub> are consistent with the BART guidelines for modeling anticipated visibility improvement. Additionally, in modeling the combined effects of SCR and PM controls on Units 1–3 for the EPA BART scenario, EPA included a factor of 0.72 in the sulfuric acid calculation (as SO<sub>4</sub>) to account for the additional 28% sulfuric acid control provided by the wet ESP as reported in EPRI 2010. AECOM did not include additional control of sulfuric acid from the new wet ESP on Units 1–3.

TABLE 10—MODELING RESULTS—98TH PERCENTILE DELTA DV IMPROVEMENT AND PERCENT CHANGE IN DELTA DECIVIEW (DV)<sup>21</sup> IMPACT FROM EPA’S BART PROPOSAL AND ALTERNATIVE EMISSION CONTROL STRATEGY COMPARED TO BASELINE IMPACTS FROM 2001–2003 USING 1 PPB AMMONIA BACKGROUND SCENARIO AS MODELED BY EPA

Class I area	Distance to FCPP	Baseline impact	Improvement from EPA’s proposal		Improvement from alternative emission control strategy	
	Kilometers (km)	Delta dv	Delta dv	%	Delta dv	%
Arches National Park .....	245	4.11	2.41	55	2.99	72
Bandelier Wilderness Area .....	216	2.90	1.65	56	2.06	72
Black Canyon of the Gunnison WA .....	217	2.36	1.43	60	1.8	75
Canyonlands NP .....	214	5.24	2.85	52	3.76	70
Capitol Reef NP .....	283	3.23	1.88	52	2.4	70
Grand Canyon NP .....	345	1.63	0.88	56	1.12	73
Great Sand Dunes NM .....	279	1.16	0.68	61	0.83	74
La Garita WA .....	202	1.72	1.06	61	1.28	75
Maroon Bells Snowmass WA .....	294	1.04	0.65	63	0.78	77
Mesa Verde NP .....	62	5.95	2.49	46	3.42	64
Pecos WA .....	258	2.16	1.18	57	1.52	72
Petrified Forest NP .....	224	1.40	0.66	56	0.92	72
San Pedro Parks WA .....	160	3.88	2.04	53	2.75	70
Weminuche WA .....	137	1.87	1.2	62	1.42	76
West Elk WA .....	245	2.76	1.74	59	2.04	73
Wheeler Peak WA .....	265	1.53	0.85	58	1.1	73
Total Delta dv or Average % Change in Delta dv ....	.....	42.94	23.65	57%	30.19	72%

*D. Alternative Emission Control Strategy Has Lower Cost Than EPA’s Proposed BART Determination*

APS did not provide any information to EPA on the cost of its proposed alternative. In our October 19, 2010 BART proposal and TSD, we presented cost and cost effectiveness information for SCR on Units 1–5. The cost effectiveness of SCR ranged from \$2,515–\$2,678 per ton of NO<sub>x</sub> reduced. The total capital investment and total annual cost of SCR on Units 1–3 represented approximately 39% of total facility-wide cost. Therefore, this alternative emissions control strategy, which calls for closing Units 1–3 and installing SCR on Units 4 and 5, should be approximately 39% less costly than EPA’s proposed BART determination requiring SCR retrofits on all five units.

**IV. EPA’s Supplemental Proposal**

In this proposal, EPA is proposing that the closure of Units 1–3 by 2014 and installation and operation of SCR on Units 4 and 5 to meet a NO<sub>x</sub> emission limit of 0.098 lb/MMBtu each by July 31, 2018, represents reasonable progress towards the national visibility goal under CAA Section 169A(b)(2) because it would result in better visibility improvement at a lower cost than our October 19, 2010 BART

proposal. EPA is proposing to require FCPP to meet a NO<sub>x</sub> emission limit for Units 4 and 5 of 0.098 lb/MMBtu each on the 30-day rolling average by July 31, 2018.

EPA is supplementing our October 19, 2010 BART proposal with regulatory language that would allow APS to comply with this alternative emission control strategy in lieu of complying with our October 19, 2010 BART proposal. EPA is continuing to propose to require APS to meet PM and 10% opacity limits on Units 4 and 5, as well as the 20% opacity limits for controlling dust from coal and ash handling and storage facilities, included in our October 19, 2010 proposal. The October 2010 proposal required FCPP to meet the PM emission limits on Units 4 and 5 180 days after the re-start of the units following the installation of SCR on those units. EPA is requesting comment on whether the PM emission limits and opacity limits on Units 4 and 5 should become effective prior to SCR installation, for both the proposed BART determination and the alternative emission control strategy.

In this supplemental proposed rule, EPA is also including a proposed schedule for installation of add-on post-combustion NO<sub>x</sub> controls for our October 19, 2010 proposed BART determination, which was not included in the 2010 proposal, deleting the requirement under paragraph (i) to submit a plan and schedule for compliance to the Regional Administrator within 180 days of the

effective date of the rule because it is redundant and less specific than the new requirement added as subparagraph (6) of paragraph (i) that a final plan be submitted by January 1, 2013, adding a test substitution allowance for PM testing on Units 4 and 5 that was included for Unit 1–3 but inadvertently excluded for Units 4 and 5 in the October 2010 proposal, and also replacing references to “SCR” in the regulatory language with “add-on post-combustion NO<sub>x</sub> controls”.

EPA is proposing to require FCPP to install and operate add-on post-combustion NO<sub>x</sub> controls on at least 560 MW of net generation within 3 years of the effective date of the final rule, and on at least 1310 MW of net generation within 4 years of the effective date of the final rule. EPA’s proposed installation schedule requires add-on post-combustion NO<sub>x</sub> controls be installed on a given MW capacity rather than on specific units, in order to provide FCPP with the flexibility to determine the order of retrofits. As proposed, FCPP would have the option to begin retrofits on Units 1–3, or on Unit 4 or 5.

EPA is requesting comment by May 2, 2011 on both our October 19, 2010 BART proposal and this supplemental proposed rule proposing to allow APS to implement this alternative emissions control strategy. We are additionally requesting comment on adding a NO<sub>x</sub> emission limit requiring greater than 80% control over longer averaging times weighted for heat-input, and the

<sup>21</sup> The Delta dv values represent the visibility impact of FCPP on the given Class I area. Higher Delta dv Improvement values represent a smaller anticipated visibility impact of FCPP on the Class I area after controls are applied, and thus greater percent improvement.

appropriate effective date of the PM limits on Units 4 and 5.

EPA understands that APS must receive approvals from several Federal and State agencies (e.g., the Federal Energy Regulatory Commission, the Arizona Corporation Commission, and the California Public Utilities Commission), and lease renewals from the Navajo Nation, which are expected to occur by the end of 2012, in order to implement this alternative emission control strategy. If this Supplemental rulemaking is finalized as proposed, APS will be required either to comply with this alternative emissions control strategy or the requirements of EPA's October 19, 2010 BART proposal as modified by this supplemental proposed rule regarding phase-in of controls. FCPP will be required to provide notification to EPA of its intended strategy for reducing NO<sub>x</sub> by June 1, 2012 and its final decision by January 1, 2013.

## V. Administrative Requirements

### A. Executive Order 12866: Regulatory Planning and Review

This proposed action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) because it is supplementing a proposed rule that applies to only one facility and is not a rule of general applicability. This supplemental proposed rule, therefore, is not subject to review under EO 12866. This action proposes a source-specific FIP for the Four Corners Power Plant on the Navajo Nation.

### B. Paperwork Reduction Act

This proposed 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 proposed FIP applies to a single facility, Four Corners Power Plant, 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 supplemental proposed 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 supplemental proposed rule to our proposed action on small entities, I certify that this supplemental proposed rule to our proposed action will not have a significant economic impact on a substantial number of small entities. The FIP for Four Corners Power Plant being addressed today would not impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc. v. FERC*, 773 F.2d 327 (DC Cir. 1985).

### D. Unfunded Mandates Reform Act (UMRA)

This supplemental proposed rule, if finalized, will impose an enforceable duty on the private sector owners of FCPP. However, this proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million (in 1996 dollars) or more for State, local, and tribal governments, in the aggregate,

or the private sector in any one year. EPA's estimate for the total annual cost to install and operate SCR on all five units at FCPP and the cost to install and operate new PM controls on Units 1–3 does not exceed \$100 million (in 1996 dollars) in any one year and the alternative emissions control strategy to shut down Units 1–3 and install SCR on Units 4 and 5 is expected to be less costly than EPA's proposed BART determination. Thus, this supplemental proposed rule is not subject to the requirements of sections 202 or 205 of UMRA. This proposed 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 supplemental proposed rule will not impose direct compliance costs on the Navajo Nation, and will not preempt Navajo law. This supplemental proposed rule will, if finalized, reduce the emissions of two pollutants from a single source, the Four Corners Power Plant.

### 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 on State or local governments, 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 supplemental proposed rule, if finalized, may have federalism implications because it makes calls for emissions reductions of two pollutants from a specific source on the Navajo Nation. However, the supplemental proposed rule, if finalized, will not impose substantial direct compliance costs on the Tribal government, and will not preempt Tribal 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 Tribal governments 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 supplemental proposed rule, if finalized, may have Tribal implications because it will require emissions reductions of two pollutants by a major stationary source located and operating on the Navajo reservation. However, this supplemental proposed rule, if finalized, will neither impose substantial direct compliance costs on Tribal governments nor pre-empt Tribal law because the proposed FIP imposes obligations only on the owners or operator of the Four Corners Power Plant.

EPA has consulted with officials of the Navajo Nation in the process of developing our October 19, 2010 proposed FIP. Additionally, EPA discussed our plans for supplementing our proposal with our analysis of APS' alternative emissions control strategy with Navajo Nation Environmental Protection Agency. EPA had an in-person meeting with Tribal representatives prior to the October 19, 2010 proposal and will continue to consult with Tribal officials during the public comment period on the proposed FIP. In addition, EPA provided Navajo Nation and other Tribal governments additional time to submit formal

comments on our Advanced Notice of Proposed Rulemaking. Several Tribes, including the Navajo, submitted comments which EPA considered in developing this NPR. Therefore, EPA has allowed the Navajo Nation to provide meaningful and timely input into the development of this proposed rule and will continue to consult with the Navajo Nation and other affected Tribes prior to finalizing our BART determination.

*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 supplemental proposed rule is not subject to Executive Order 13045 because it requires emissions reductions of two pollutants from a single stationary source. Because this supplemental proposed rule only applies to a single source and is not a proposed rule of general applicability, it is not economically significant as defined under Executive Order 12866, and does not have a disproportionate effect on children. However, to the extent that the final rule will reduce emissions of PM and NO<sub>x</sub>, which contribute to ozone and PM formation, the rule will have a beneficial effect on children's health by reducing air pollution that causes or exacerbates childhood asthma and other respiratory issues.

*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 104-113, 12 (10) (15 U.S.C. 272 *note*) directs EPA to use voluntary consensus 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 proposed 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. EPA is requesting comment on other appropriate VCS for measuring opacity or emissions of PM and NO<sub>x</sub>.

Particulate Matter Emissions—EPA Methods 1 Through 5

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

NO<sub>x</sub> Emissions—Continuous Emissions Monitors

*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 supplemental proposed rule, if finalized, 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 proposed rule requires emissions reductions of two pollutants from a single stationary source, Four Corners Power Plant.

#### 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 9, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

Title 40, chapter I of the Code of Federal Regulations is proposed to be 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.*

2. Section 49.23 is amended by adding paragraphs (i) and (j) to read as follows:

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

\* \* \* \* \*

(i) Regional Haze Best Available Retrofit Technology limits for this plant are in addition to the requirements of paragraphs (a) through (h) of this section. All definitions and testing and monitoring methods of this section apply to the limits in paragraph (i) of this section except as indicated in paragraphs (i)(1) through (4) of this section. The interim NO<sub>x</sub> emission limits for each unit shall be effective 180 days after re-start of the unit after installation of add-on post-combustion NO<sub>x</sub> controls for that unit and until the plant-wide limit goes into effect. The plant-wide NO<sub>x</sub> limit shall be effective no later than 5 years after the effective date of this paragraph. The owner or

operator may elect to meet the plant-wide limit early to remove the individual unit limits. Particulate limits for Units 1, 2, and 3 shall be effective 180 days after re-start of the units after installation of the PM controls but no later than 5 years after the effective date of this paragraph (i). Particulate limits for Units 4 and 5 shall be effective 180 days after re-start of the units after installation of the add-on post-combustion NO<sub>x</sub> controls.

(1) Particulate Matter for units 1, 2, and 3 shall be limited to 0.012 lb/MMBtu for each unit as measured by the average of three test runs with each run collecting a minimum of 60 dscf of sample gas and with a duration of at least 120 minutes. Sampling shall be performed according to 40 CFR Part 60 Appendices A–1 through A–3, Methods 1 through 4, and Method 5 or Method 5e. The averaging time for any other demonstration of the particulate matter compliance or exceedance shall be based on a six hour average. Particulate testing shall be performed annually as required by paragraph (e)(3) of this section. This test with 120 minute test runs may be substituted and used to demonstrate compliance with the particulate limits in paragraph (d)(2) of this section.

(2) Particulate Matter from units 4 and 5 shall be limited to 0.015 lb/MMBtu for each unit as measured by the average of three test runs with each run collecting a minimum of 60 dscf of sample gas and with a duration of at least 120 minutes. Sampling shall be performed according to 40 CFR Part 60 Appendices A–1 through A–3, Methods 1 through 4 and Method 5 or Method 5e. The averaging time for any other demonstration of the particulate matter compliance or exceedance shall be based on a six hour average. Particulate testing shall be performed annually as required by paragraph (e)(3) of this section. This test with 120 minute test runs may be substituted and used to demonstrate compliance with the particulate limits in paragraph (d)(2) of this section.

(3) No owner or operator shall discharge or cause the discharge of emissions from the stacks of Units 1, 2, 3, 4 or 5 into the atmosphere exhibiting greater than 10% opacity, excluding uncombined water droplets, averaged over any six (6) minute period.

(4) Plant-wide nitrogen oxide emission limits.

(i) The plant-wide nitrogen oxide limit, expressed as nitrogen dioxide (NO<sub>2</sub>), shall be 0.11 lb/MMBtu as averaged over a rolling 30 calendar day period. NO<sub>x</sub> emissions for each calendar day shall be determined by summing the hourly emissions measured as

pounds of NO<sub>2</sub> for all operating units. Heat input for each calendar day shall be determined by adding together all hourly heat inputs, in millions of BTU, for all operating units. Each day the 30 day rolling average shall be determined by adding together that day's and the preceding 29 days' pounds of NO<sub>2</sub> and dividing that total pounds of NO<sub>2</sub> by the sum of the heat input during the same 30 day period. The results shall be the 30 day rolling pound per million BTU emissions of NO<sub>x</sub>.

(ii) The interim NO<sub>x</sub> limit for each individual boiler with add-on post-combustion NO<sub>x</sub> control shall be as follows:

(A) Unit 1 shall meet a rolling 30 calendar day NO<sub>x</sub> limit of 0.21 lb/MMBtu,

(B) Unit 2 shall meet a rolling 30 calendar day limit of 0.17 lb/MMBtu,

(C) Unit 3 shall meet a rolling 30 calendar day limit of 0.16 lb/MMBtu,

(D) Units 4 and 5 shall meet a rolling 30 calendar day limit of 0.11 lb/MMBtu, each.

(iii) Schedule for add-on post-combustion NO<sub>x</sub> controls installation

(A) Within 3 years of the effective date of this rule, FCPP shall have installed add-on post-combustion NO<sub>x</sub> controls on at least 560 MW (net) of generation.

(B) Within 4 years of the effective date of this rule, FCPP shall have installed add-on post-combustion NO<sub>x</sub> controls on at least 1310 MW (net) of generation.

(iv) Testing and monitoring shall use the 40 CFR part 75 monitors and meet the 40 CFR part 75 quality assurance requirements. In addition to these 40 CFR part 75 requirements, relative accuracy test audits shall be performed for both the NO<sub>x</sub> pounds per hour measurement and the heat input measurement. These shall have relative accuracies of less than 20%. This testing shall be evaluated each time the 40 CFR part 75 monitors undergo relative accuracy testing.

(v) If a valid NO<sub>x</sub> pounds per hour or heat input is not available for any hour for a unit, that heat input and NO<sub>x</sub> pounds per hour shall not be used in the calculation of the 30 day plant wide rolling average.

(vi) Upon the effective date of the plant-wide NO<sub>x</sub> average, the owner or operator shall have installed CEMS and COMS software that complies with the requirements of this section.

(5) In lieu of meeting the NO<sub>x</sub> requirements of paragraph (i)(4) of this section, FCPP may choose to permanently shut down Units 1, 2, and 3 by January 1, 2014 and meet the requirements of this paragraph to control NO<sub>x</sub> emissions from Units 4 and

5. By July 31, 2018, Units 4 and 5 shall be retrofitted with add-on post-combustion NO<sub>x</sub> controls to reduce NO<sub>x</sub> emissions. Units 4 and 5 shall each meet a 0.098 lb/MMBtu emission limit for NO<sub>x</sub> expressed as NO<sub>2</sub> over a rolling 30 day average. Emissions from each unit shall be measured with the 40 CFR part 75 continuous NO<sub>x</sub> monitor system and expressed in the units of lb/MMBtu and recorded each hour. A valid hour of NO<sub>x</sub> data shall be determined per 40 CFR part 75. For each calendar day, every valid hour of NO<sub>x</sub> lb/MMBtu measurement shall be averaged to determine a daily average. Each daily average shall be averaged with the preceding 29 valid daily averages to determine the 30 day rolling average. The NO<sub>x</sub> monitoring system shall meet the data requirements of 40 CFR 60.49Da(e)(2) (at least 90% valid hours for all operating hours over any 30 successive boiler operating days). Emission testing using 40 CFR part 60 appendix A Method 7E may be used to supplement any missing data due to continuous monitor problems. The 40 CFR part 75 requirements for bias adjusting and data substitution do not apply for adjusting the data for this emission limit.

(6) By June 1, 2012, the owner or operator shall submit a letter to the Regional Administrator updating EPA of the status of lease negotiations and regulatory approvals required to comply with paragraph (i)(5) of this section. By January 1, 2013, the owner or operator shall notify the Regional Administrator by letter whether it will comply with paragraph (i)(5) of this section or whether it will comply with paragraph (i)(4) of this section and shall submit a plan and time table for compliance with either paragraph (i)(4) or (i)(5) of this section. The owner or operator shall amend and submit this amended plan to the Regional Administrator as changes occur.

(7) The owner or operator shall follow the requirements of 40 CFR part 71 for submitting an application for permit revision to update its Part 71 operating permit after it achieves compliance with paragraph (i)(4) or (i)(5) of this section.

(j) *Dust*. Each owner or operator shall operate and maintain the existing dust suppression methods for controlling dust from the coal handling and ash handling and storage facilities. Within ninety (90) days after promulgation of this paragraph, the owner or operator shall develop a dust control plan and submit the plan to the Regional Administrator. The owner or operator shall comply with the plan once the plan is submitted to the Regional Administrator. The owner or operator

shall amend the plan as requested or needed. The plan shall include a description of the dust suppression methods for controlling dust from the coal handling and storage facilities, ash handling, storage, and landfills, and road sweeping activities. Within 18 months of promulgation of this paragraph each owner or operator shall not emit dust with opacity greater than 20 percent from any crusher, grinding mill, screening operation, belt conveyor, or truck loading or unloading operation.

[FR Doc. 2011-3998 Filed 2-24-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2007-0924; FRL-9270-6]

#### Approval and Promulgation of Air Quality Implementation Plans, State of Louisiana

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve portions of State Implementation Plan (SIP) revisions for the State of Louisiana. The rule revisions, which cover the years 1996–2006, were submitted by the State of Louisiana, and include formatting changes, regulatory wording changes, substantive or content changes, and incorporation by reference (IBR) of Federal rules. These cumulative revisions affect Louisiana Administrative Code (LAC) 33:III, Chapters 1, 7, 9, 11, 13, 14, 15, 19, 21, 22, 23, 25, 30, 60, 61, and 65. The overall intended outcome is to make the approved Louisiana SIP consistent with current Federal and State requirements. We are approving the revisions in accordance with 110 of the Clean Air Act (CAA or Act) and EPA's regulations.

**DATES:** Written comments must be received on or before March 28, 2011.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2007-0924 by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- *E-mail:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail to the person

listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2007-0924. 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 the disclosure of which is restricted by statute. Do not submit information through <http://www.regulations.gov> or e-mail that you consider to be CBI or otherwise protected from disclosure. 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, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,