

appropriate docket identification number.

## II. Overview of the Stationary Source SO<sub>2</sub> Reduction Program Covered by This Rule

The purpose of this rule is to revise 40 CFR 51.309 of the regional haze rule to incorporate additional provisions to address visibility impairment in 16 Class I areas on the Colorado Plateau.

### A. What Is the Regional Haze Rule?

Section 169A of the CAA establishes a national goal for protecting visibility in Federally-protected scenic areas. These "Class I" areas include national parks and wilderness areas. The national visibility goal is to remedy existing impairment and prevent future impairment in these Class I areas, consistent with the requirements of sections 169A and 169B of the CAA.

Regional haze is a type of visibility impairment caused by air pollutants emitted by numerous sources across a broad region. The EPA uses the term regional haze to distinguish this type of visibility problem from those which are more local in nature. In 1999, EPA issued a regional haze rule requiring States to develop implementation plans that will make "reasonable progress" toward the national visibility goal, (64 FR 35714, July 1, 1999). The first State plans for regional haze are due between 2003 and 2008. The regional haze rule provisions appear at 40 CFR 51.308 and 40 CFR 51.309.

### B. What Are the Special Provisions for Western States and Eligible Indian Tribes in 40 CFR 51.309 of the Regional Haze Rule?

The regional haze rule at 40 CFR 51.308 sets forth the requirements for State implementation plans (SIPs) under the regional haze program. The rule requires State plans to include visibility progress goals for each Class I area, as well as emissions reductions strategies and other measures needed to meet these goals. The rule also provides an optional approach, described in 40 CFR 51.309, that may be followed by the nine Western States (Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming) that comprise the transport region analyzed by the GCVTC during the 1990's. This optional approach is also available to eligible Indian Tribes within this geographic region. The regulatory provisions at 40 CFR 51.309 are based on the final report issued by the GCVTC in 1996,<sup>1</sup> which included a

number of recommended emissions reductions strategies designed to improve visibility in the 16 Class I areas on the Colorado Plateau.

In developing the regional haze rule, EPA received a number of comments on the proposed rule encouraging the Agency to recognize explicitly the work of the GCVTC. In addition, in June 1998, Governor Leavitt of Utah provided comments to EPA on behalf of the Western Governors Association (WGA), further emphasizing the commitment of Western States to implementing the GCVTC recommendations. The WGA's comments also suggested the translation of the GCVTC's recommendations into specific regulatory language. The EPA issued a Notice of Availability during the fall of 1998 requesting further comment on the WGA proposal and regulatory language based upon the WGA's recommendations. Based on the comments received on this **Federal Register** notice, EPA developed the provisions set forth in 40 CFR 51.309 that allow the nine Transport Region States and eligible Tribes within that geographic area to implement many of the GCVTC recommendations within the framework of the national regional haze rule.

The provisions in 40 CFR 51.309 comprise a comprehensive long-term strategy for addressing sources that contribute to visibility impairment within this geographic region. The strategy addresses the time period between the year 2003,<sup>2</sup> when the implementation plans are due, and the year 2018. The provisions address emissions from stationary sources, mobile sources, and area sources such as emissions from fires and windblown dust.

One element of the GCVTC's strategy to address regional haze is a program to reduce stationary source emissions of SO<sub>2</sub>. This program calls for setting a series of declining caps on emissions of SO<sub>2</sub>. These declining caps on emissions are referred to as emissions milestones and provide for a reduction in SO<sub>2</sub> emissions over time. In designing this program, the GCVTC intended for these milestones to be reduced through voluntary measures, but also included provisions for an enforceable market-based program that would serve as a "backstop" if voluntary measures did not succeed. At the time the regional haze rule was published, however, it was broadly recognized that the specific emission milestones, and the details of how both the voluntary and enforceable

phases of the program would be implemented, were necessary elements of a regulatory program. Accordingly, the regional haze rule, in 40 CFR 51.309(f), required the development of an "Annex" to the report of the GCVTC that would fill in these details. The regional haze rule provided that the option afforded by 40 CFR 51.309 would only be available if an Annex, addressing the specific requirements of 40 CFR 51.309(f), were submitted to EPA by October 1, 2000. The EPA required the submission of an Annex by this date to ensure that EPA would be able to act on it before the December 31, 2003 deadline for SIPs under 40 CFR 51.309(c).

### C. What Was Required To Be Included in the Annex to the GCVTC Report?

The regional haze rule required the GCVTC (or a regional planning body formed to implement the Commission recommendations, such as the Western Regional Air Partnership (WRAP) to provide recommendations to fill in the details for two main aspects of the program:

- Emissions reductions milestones for stationary source SO<sub>2</sub> emissions for the years 2003, 2008, 2013, and 2018. The milestones must provide for "steady and continuing emissions reductions" for the 2003–2018 time period. In addition, the milestones must ensure greater reasonable progress than would be achieved by application of best available retrofit technology (BART) pursuant to §51.308(e)(2).
- Documentation setting forth the details for how a market trading program would be implemented in the event that voluntary measures are not sufficient to meet the required milestones. This documentation must include model rules, memoranda of understanding, and other documentation describing in detail how emissions reductions progress will be monitored, what conditions will result in the activation of the market trading program, how allocations will be performed, and how the program will operate.

The EPA received the Annex from the WRAP in a timely manner, on September 29, 2000. The EPA recognizes the significant amount of work that was devoted to developing the Annex and we commend the WRAP participants for their efforts. Under 40 CFR 51.309(f)(3), if EPA finds that the Annex meets the requirements of the regional haze rule, EPA committed to revise the regional haze rule based on the Annex to incorporate provisions requiring compliance with the milestones and backstop trading program. Along with the existing elements of 40 CFR 51.309, these new

<sup>1</sup> Recommendations for Improving Western Vistas. GCVTC, June 10, 1996.

<sup>2</sup> Indian Tribes are given the flexibility under EPA regulations to submit implementation plans and opt into the program after the 2003 deadline.