

groups, requested that EPA extend the deadline for SIPs under 40 CFR 51.309. One commenter, representing an environmental organization, recommended that this deadline should not change.

The primary argument of those recommending an extension of the December 31, 2003 deadline, is that the *American Corn Growers* decision creates additional uncertainty for States deciding whether to submit regional haze SIPs under 40 CFR 51.309 or 40 CFR 51.308. Some commenters requested that EPA extend the deadline by the amount of time it takes to resolve the remanded portions of the regional haze rule. The environmental group commenter opposed to the extension stated that there is no legal or policy basis for an extension because the deadline is required by the rule. In addition, this commenter noted that States have had several years to prepare SIPs under 40 CFR 51.309, and that the market-based alternative to BART is unaffected by the court decision. Finally, this commenter believed that delays in the SIP submittals could undermine EPA's finding that the 40 CFR 51.309 program constitutes greater reasonable progress than BART.

In the final rule, EPA retains the December 31, 2003 deadline for a number of reasons. First, as noted above, EPA does not believe that the *American Corn Growers* decision affects the WRAP States' ability to move forward in implementing 40 CFR 51.309. While the court decision may affect a State's decision on whether to pursue the optional program under 40 CFR 51.309, EPA does not believe that this is an adequate justification for delaying the program. Second, EPA believes that the 2003 deadline is a fundamental element of the overall optional strategy provided by 40 CFR 51.309. The strategy was supportable under the regional haze rule in large part because it was an early strategy that would be in place well before SIPs under 40 CFR 51.308. The fact that it was received early and contained comprehensive strategies was an important part of the rationale for its acceptance. The EPA believes that the longer the strategy is delayed in its implementation, the less valid this rationale becomes.

3. Procedural Issues

One commenter stated that EPA cannot approve the Annex because of procedural flaws related to 40 CFR 51.309(f)(1) of the regional haze rule. The commenter asserted that EPA's rulemaking to approve the Annex is procedurally flawed because EPA did

not publish the Annex upon its receipt. Additionally, the commenter notes that EPA did not amend the regional haze rule within 1 year after receipt of the Annex.

The EPA disagrees with the assertions that this rulemaking is procedurally flawed. The EPA published a Notice of Availability in the **Federal Register** for the Annex on November 15, 2000 (65 FR 68999), indicating where the Annex could be found on EPA's Web site. The commenter is correct that EPA established a deadline for itself of 1 year for the Agency to incorporate the provisions of the Annex if EPA found that the Annex met the requirements of the rule. Although the statement that EPA "will act" within 1 year signaled EPA's intentions to act within that time period, nothing in the regional haze rule precludes EPA from acting after this self-imposed deadline. In particular, action within the 1-year deadline should not be interpreted as a prerequisite for approving the Annex or for incorporating the Annex into the regional haze rule. It is clear from the commenter's statements, however, that the statement that EPA will act within 1 year has created confusion as to the meaning of the provision. The EPA is clarifying this provision by removing the phrase "1 year" from section 309(f)(3).

B. Milestones

A central feature of the program in the WRAP annex, and in EPA's proposed rule, is a set of emissions milestones for SO₂ from stationary sources for the time period between 2003 and 2018. In the proposed rule, EPA included the Annex milestones. In the final rule, EPA includes the same milestones as proposed.

In addition, the proposed rule included specific language to allow for future adjustments to the milestones. In the Annex, the WRAP described a limited set of future circumstances that would necessitate adjustments to the milestones. For each of these circumstances, the Annex included a detailed description of how the milestone would be adjusted, including a discussion of the administrative process for making each adjustment. In the proposed rule, EPA included regulatory language for each adjustment, closely following the provisions of the Annex. In the final rule, EPA has made a few changes to the adjustments based upon comments received.

In this unit of the preamble, we discuss comments received related to the milestones and the adjustments.

1. Whether Milestones Satisfy Requirements in the Regional Haze Rule

Proposed rule. In the proposal, EPA indicated its agreement with the WRAP's conclusion that the emissions milestones meet the requirements of the CAA and the regional haze rule. The EPA devoted a significant portion of the preamble of the proposed rule to a discussion of its rationale for this proposed finding, (67 FR 30420–30426). In this discussion, EPA concluded that the WRAP's program for SO₂ was appropriate in lieu of source specific BART limits because the milestone for the year 2018 provided for "greater reasonable progress" in visibility improvement than WRAP States would obtain by implementing the requirement for source-specific BART. In addition, the preamble to the proposal discusses EPA's finding that the milestones for the years between 2003 and 2017 provide for "steady and continuing" progress.

With respect to EPA's findings on BART, the preamble discussion for the proposed rule focused largely on the demonstration provided by the WRAP in Attachment C of the Annex. The EPA noted the WRAP used the following procedure to identify the year 2018 milestone:

- Developed an estimate of baseline SO₂ emissions for the year 2018, (*i.e.*, the predicted SO₂ emissions in the year 2018 in the absence of a program to reduce SO₂ emissions);
- Developed a list of BART-eligible sources in the region;
- Developed an estimate of the emissions reductions that BART sources could achieve, and
- Selected a year 2018 milestone that reduces the baseline emissions by an amount that would achieve greater reasonable progress in improving visibility than by requiring each BART-eligible source to install BART.

In the proposal, EPA discussed the data and methods relied on by the WRAP for each of these steps. The EPA agreed with the conclusion reached by the WRAP that the 2018 milestone meets the requirements of the regional haze rule, taking into account the uncertainties inherent in the calculations of predicted emissions in 2018.

Public Comments. Public comments, with one exception, were supportive of EPA's finding that the year 2018 milestone represented "greater reasonable progress" than BART. One commenter, representing the trucking industry, disagreed with this finding, citing a number of areas where it believed that the demonstration was lacking or inadequate.