

The WRAP commented that EPA's preamble discussion did not completely capture the scope and methodology of the year 2018 milestone decision. In their comments, the WRAP agreed that EPA had correctly described the method the WRAP used to determine that the program achieved greater reasonable progress than BART. However, the WRAP's comments stress that while the milestones were informed by these calculations, the milestones were negotiated numbers reflecting a broader view of the backstop trading program and the relevant factors in the CAA. In addition, the WRAP notes that individual elements of the calculations do not represent a consensus position in isolation from the balanced package in the Annex.

The commenter from the trucking industry was critical of EPA's acceptance of the year 2018 milestones. The commenter noted that in the preamble EPA appeared to have concerns with: (1) How the WRAP identified BART-eligible sources, (2) how the WRAP calculated emissions reductions from those sources, and (3) the WRAP's inclusion of the 35,000 tons for "headroom and uncertainty." This commenter believed that taken overall, EPA should have considered the WRAP's milestone for year 2018 to be deficient. The commenter was also critical of the provision for a backstop trading program, arguing that such a program would allow for emissions reductions far away from the Colorado Plateau to be substituted for more effective reductions at a closer distance.

The comments, with one exception, supported EPA's proposed conclusion that the milestones for the years 2003 through 2017 represented "steady and continuing" progress. Comments from the trucking industry were critical of this finding. In their view, the milestones do not provide for steady and continuing progress because some of the early year milestones exceed year 2000 actual emissions levels.

Final rule. The final rule retains the milestones contained in the proposed rule. The EPA continues to believe that the milestones provide for "greater reasonable progress than BART" and for "steady and continuing progress." The EPA disagrees with comments that the milestones are deficient in this regard. The EPA agrees with stakeholders that it is a critical consideration that the WRAP's milestones provide a "cap" on emissions which may not be exceeded. Any program providing for case-by-case controls on a specific set of sources does not establish such a "cap" for the region. Moreover, this cap applies to a population of sources that includes all

sources in the region emitting more than 100 tons of SO₂, which is a much broader population than if only the BART-eligible sources were included. The EPA continues to conclude that the WRAP milestones are reasonable in light of the inherent uncertainties that exist in any forecast to the year 2018. Modeling results showed predicted visibility improvements equivalent to, or greater than, those that would result from a "command and control" scenario.

The EPA disagrees with comments that the milestones cannot be considered to provide for "steady and continuing" reductions if actual emissions were allowed to increase in the early years. As noted in the proposal, EPA believes that the WRAP appropriately used the GCVTC goal of a 13 percent reduction in emissions between 1990 and 2000 as a starting point or frame of reference, rather than an estimate of actual emissions for the year 2000. Given that a greater than expected degree of reduction has already occurred, EPA agrees that the region should not be effectively penalized for achieving early reductions in emissions.

2. Adjustments for States and Tribes That Choose Not To Participate

Proposed rule. When developing the Annex, the WRAP understood that some States and Tribes may choose not to participate in the optional program provided by 40 CFR 51.309. Thus, the WRAP provided to EPA individual opt-out amounts for each State and Tribe and for each year from 2003 to 2018. These opt-out amounts represented the amount of emissions that would be deducted from the milestones for each State and Tribe that does not participate. The EPA included a table in the proposed rule (67 FR 30446, May 6, 2002) that shows these opt-out amounts for each State and Tribe. The proposed rule noted, as the WRAP recommended, that the emissions amounts budgeted in this table are only for the purpose of determining the milestones at the beginning of the program if some States and Tribes choose not to participate. The EPA cautioned that the amounts budgeted to each State and Tribe in this table are not necessarily the amounts that will be allocated to sources within the relevant State's or Tribe's jurisdiction if a trading program is triggered.

The proposal described the process by which the milestones would be adjusted to take into account the individual State and tribal opt-out amounts. For States, SIPs for all participating States are due by the December 31, 2003 deadline.

Accordingly, EPA assumed in the proposal that after this deadline has passed it will be known which States are participating and which are not. Thus, the proposal called for SIPs to provide for deducting the State-specific amounts in Table 2 (67 FR 30446, May 6, 2002) for "opt-out States" from the amounts in Table 1 (67 FR 30425, May 6, 2002) at the outset of the program. For Tribes, the proposed rule provides flexibility for opting into the program after the 2003 SIP submission deadline. Under the proposal, for Tribes that have not opted into the program by the 2003 deadline, the amounts in Table 2 (67 FR 30446, May 6, 2002) would be deducted from the amounts in Table 1 at the outset of the program. For Tribes that opt into the program at a later date, the proposal required these amounts to be automatically added to the amounts in Table 1 (67 FR 30425, May 6, 2002), beginning with the first year after a TIP implementing 40 CFR 51.309 is approved by EPA.

In the proposal, EPA stated that for the program under 40 CFR 51.309 to achieve the WRAP and GCVTC objectives, a sufficient number of States must participate in the program. The EPA proposed to defer to the WRAP's judgment on the issue of how many States would constitute a "critical mass" for the program, and we requested comment on this issue.

Public Comments. A few comments were received on issues related to the proposed opt-out amounts and discussion.

Two commenters agreed with EPA's clarification that the opt-out amounts did not necessarily represent the amount of allocations that a State's or Tribe's sources would receive if the backstop trading program were triggered. One commenter recommended that the State opt-out amounts *should* be treated as the amount of allocations for a given State, because: (1) The opt-out amounts represent the best estimate of emissions reductions for the BART-eligible sources in each State or Tribe, and (2) inclusion of the tables may create a perception that any State that issues fewer allocations than the opt-out amounts is treating the sources within the State inequitably.

Several commenters agreed with EPA's recommendation to defer judgments on "critical mass" issues to the WRAP. One environmental group commenter recommended that, in evaluating whether there are enough States and Tribes participating in 40 CFR 51.309, EPA must thoroughly consider the extent to which the SO₂ declining cap will effectively prevent