

CFR 51.309, this would lead to a regional reduction in SO<sub>2</sub> emissions in order to meet the WRAP's SO<sub>2</sub> milestones for the 2003–2018 time period. The WRAP's analysis of the program's requirements results in the following projections:<sup>11</sup>

- No reduction in crude oil supply;
- No reduction in fuel production;
- 0.0 percent to 0.2 percent increase in wholesale electricity prices in 2018;
- Production cuts in coal in the Western States balanced by increases in coal production in the Appalachian region;
- No increase in energy distribution costs;
- No significantly increased dependence on foreign supplies of energy;
- Adverse impacts on employment, gross regional product, and real disposable incomes in the affected Western States of less than 0.05 percent in 2018;
- Room for new sources of electrical generating capacity within the target SO<sub>2</sub> emission levels.

Given the particular concern in the West regarding needed electrical generating capacity, EPA believes it important to note the WGA statement that “the conclusion [\* \* \* of their analysis \* \* \*] is that sulfur dioxide emissions reductions milestones should in no way impede the construction of new coal-fired power plants in the West<sup>12</sup> \* \* \*”.

Furthermore, an assessment by WGA of the effects of the WRAP Annex indicates that it is possible to build 7000 megawatts or more of new coal-fired generation at any time between 2001 and 2018 without exceeding the SO<sub>2</sub> emission milestones in the Annex.<sup>13</sup> However, the amount of megawatts that could be built is affected by analytical assumptions regarding fuel mix and quality, capacity utilization, control levels, and the demarcation of fuel use regions. Additional scenarios included in the WGA analysis show that there could be room for 19,000 megawatts of generation capacity.

The EPA believes that the program contained in the Annex and in today's rule will not result in energy reduction

of 500 or more megawatts installed production capacity. Under this program, considerable flexibility is afforded to electricity generators on how to comply with the program. Even if the trading program is triggered and sources must comply with allowances, we believe that the least-cost solutions afforded by the trading program, and the ability to secure emissions reductions from other sources, will make it very unlikely that the program would lead to plant shutdowns. The EPA did not receive any public comments specifically addressing this executive order or EPA's findings.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

However, today's rule does not incorporate any requirements to use any particular technical standards, such as specific measurement or monitoring techniques. Therefore, EPA is not considering the use of any voluntary consensus standards in this rulemaking. Today's rule does require States to develop emissions quantification protocols and monitoring procedures for their SIPs as part of the market trading program. However, EPA generally defers to the choices the States make in their SIPs when the CAA does not prescribe requirements, so EPA is not requiring the use of specific, prescribed techniques, or methods in those SIPs. Nevertheless, while EPA believes that it is not necessary to consider the use of any voluntary consensus standards for this proposal, we will encourage States and Tribes to consider the use of such standards in the development of these protocols. The EPA did not receive any public comments concerning this executive order.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations.

The EPA believes that today's rule should not raise any environmental justice issues. The overall result of the program is regional reductions in SO<sub>2</sub>. Because this program would likely reduce regional and local SO<sub>2</sub> levels in the air and because there are separate programs under the CAA to ensure that SO<sub>2</sub> levels do not exceed national ambient air quality standards, it appears unlikely that this program would permit any adverse effects on local populations. The EPA did not receive any public comments regarding this executive order.

#### *K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the U.S. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the U.S. prior to publication of the rule in the **Federal Register**. A “major rule” cannot take effect until 60 days after it is published in the **Federal Register**. This action is a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective on August 4, 2003.

#### **List of Subjects in 40 CFR Part 51**

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Nitrogen oxides, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: May 21, 2003.

**Christine Todd Whitman,**  
*Administrator.*

■ For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

<sup>11</sup> ICF consulting, Final Report on Regional Economic Impacts of Annex. Transmitted to Tim Smith, EPA/OAQPS by Patrick Cummins, WRAP Co-Project Manager, June 29, 2001.

<sup>12</sup> Memorandum from Jim Souby to Staff Council, State Environmental Directors and State Air Directors, “Energy and Air Quality Issues.” February 23, 2001.

<sup>13</sup> Technical Memorandum, “Analysis of New Coal-Fired Power Plants Under the Proposed Sulfur Dioxide Emission Reduction Milestones for the Nine-State Grand Canyon Visibility Transport Region.” February 22, 2001.