

determine whether mobile sources emissions constitute a significant contributor to haze in a given State. The revisions retain the requirements for statewide inventories and performance demonstrations.

Finally, the revisions contain a backstop provision, requested by the WRAP, to address any potential concerns regarding SO₂ from nonroad sources in the event that recently proposed Federal standards, referenced above, are not finalized. The backstop provision, contained in the new § 51.309(d)(5)(i)(B), requires States to assess the need for any long-term strategies to address SO₂ from nonroad mobile sources by no later than December 31, 2008. In determining whether to revise their SIPs to address SO₂ from mobile sources, States may consider the emissions reductions achieved—or anticipated—by any Federal standards that are in place addressing fuel sulfur content for nonroad engines.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may:

“(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.”

Pursuant to the terms of Executive Order 12866, we have determined that this direct final rule is not a significant regulatory action.

B. Paperwork Reduction Act

This action does not add any new requirements involving the collection of

information as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The OMB has approved the information collection requirements contained in the final Regional Haze regulations (64 FR 35714, July 1, 1999) and has assigned OMB control number 2060–0421 (EPA ICR No. 1813.04).

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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, 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 rulemaking on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards (as discussed on the SBA Web site at <http://www.sba.gov/size/indexableofsize.html>); (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 today’s direct final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives “which minimize any significant economic impact of the proposed rule on small entities.” 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule eliminates certain comprehensive requirements to address mobile source emissions that EPA now considers to be unnecessary. Specifically, as discussed above, this rule eliminates the requirements in § 51.309(5)(ii) and (iii) to determine whether mobile sources emissions constitute a significant contributor to haze in a given State, and for those States with areas that meet this significance criterion, to establish mobile source emissions budgets. The rule requires emissions reductions consistent with the downward trend in mobile source emission inventories that is currently projected, based on regulations that have already been promulgated. We have therefore concluded that today’s rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule that “includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more * * * in any one year.” A “Federal mandate” is defined under section 421(6), 2 U.S.C. 658(6), to include a “Federal intergovernmental mandate” and a “Federal private sector mandate.”