

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use*

This rule is not subject to Executive Order 13211, "Actions that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 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.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*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 requirements of Executive Order 12898 have been previously addressed to the extent practicable in the Regulatory Impact Analysis (RIA) for the regional haze rule (cited above), particularly in chapters 2 and 9 of the RIA. Today's direct final rule makes no changes that would have a disproportionately high and adverse human health or environmental effect on minorities and low-income populations.

*K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the SBREFA, 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 United States. 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 United States 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 not a "major rule" as defined by 5 U.S.C. 804(a).

**IV. Statutory Provisions and Legal Authority**

Statutory authority for today's direct final rule comes from sections 169(a) and 169(b) of the CAA (42 U.S.C. 7545(c) and (k)). These sections require EPA to issue regulations that will require States to revise their SIPs to ensure that reasonable progress is made toward the national visibility goals specified in section 169(A).

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

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

Dated: June 27, 2003.

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

■ For the reasons set forth in the preamble, part 51 of title 40, Chapter 1 of the Code of Federal Regulations is amended as follows:

**PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 51 continues to read as follows:

**Authority:** 42 U.S.C. 7410, 7414, 7421, 7470–7479, 7492, 7601, and 7602.

**Subpart P—Protection of Visibility**

■ 2. Section 51.309 is amended by revising paragraphs (b)(6) and (d)(5)(i), deleting paragraphs (d)(ii) and (d)(iii), and renumbering (d)(iv) to (d)(ii), to read as follows:

**§ 51.309 Requirements related to the Grand Canyon Visibility Transport Commission.**

\* \* \* \* \*

(b)(6) *Continuous decline in total mobile source emissions* means that the projected level of emissions from mobile sources of each listed pollutant in 2008, 2013, and 2018, are less than the projected level of emissions from mobile sources of each listed pollutant for the

previous period (*i.e.*, 2008 less than 2003; 2013 less than 2008; and 2018 less than 2013).

\* \* \* \* \*

(d)(5)(i) Statewide inventories of onroad and nonroad mobile source emissions of VOC, NO<sub>x</sub>, SO<sub>2</sub>, PM<sub>2.5</sub>, elemental carbon, and organic carbon for the years 2003, 2008, 2013, and 2018.

(A) The inventories must demonstrate a continuous decline in total mobile source emissions (onroad plus nonroad; tailpipe and evaporative) of VOC, NO<sub>x</sub>, PM<sub>2.5</sub>, elemental carbon, and organic carbon, evaluated separately. If the inventories show a continuous decline in total mobile source emissions of each of these pollutants over the period 2003–2018, no further action is required as part of this plan to address mobile source emissions of these pollutants. If the inventories do not show a continuous decline in mobile source emissions of one or more of these pollutants over the period 2003–2018, the plan submission must provide for an implementation plan revision by no later than December 31, 2008 containing any necessary long-term strategies to achieve a continuous decline in total mobile source emissions of the pollutant(s), to the extent practicable, considering economic and technological reasonableness and Federal preemption of vehicle standards and fuel standards under title II of the CAA.

(B) The plan submission must also provide for an implementation plan revision by no later than December 31, 2008 containing any long-term strategies necessary to reduce emissions of SO<sub>2</sub> from nonroad mobile sources, consistent with the goal of reasonable progress. In assessing the need for such long-term strategies, the State may consider emissions reductions achieved or anticipated from any new Federal standards for sulfur in nonroad diesel fuel.

(ii) [*text of (iv) retained same as before*]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP–2003–0135; FRL–7313–7]

**Fludioxonil; Pesticide Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.