

requirement for statewide inventories to show a continuous decline in emissions of each pollutant of concern over the planning period. Should mobile source emissions not decline as expected, States would have to revise their SIPs to include any feasible additional strategies. This new requirement conforms to trends that are currently projected.

In addition, in light of the continuous decline in mobile source emissions expected over the entire region, these revisions also eliminate the unneeded requirement in 40 CFR 51.309(d)(5)(ii) and (iii) to 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 40 CFR 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.

C. What Comments Did We Receive on the Proposed Rule and What Is Our Response?

We received one comment letter on the proposed rule, from the Center for Energy and Economic Development (CEED). We also received three comments at the public hearing—one from CEED, reiterating comments provided in its letter, one from the WRAP in support of this rule, and one from the Colorado Mining Association.

The CEED commented (1) that EPA should fix other flaws in section 309 before making this change; (2) that making this change now may constrain state authority in making “reasonable progress” determinations; (3) that it is not clear that all WRAP states and tribes have authorized the request for this change; and (4) that this action circumvents the recent statutory process enacted by Arizona for determining which regional haze path to implement.

In regard to comment (1), EPA believes that we would be remiss in awaiting the outcome of CEED’s current

lawsuit before bringing the requirements of section 309 in line with the most recent data on mobile sources emission trends. Section 309 is currently in effect, and, as explained earlier in this preamble, this change is needed by States and tribes who must submit section 309 SIPs to EPA by the December 31, 2003, deadline. Without this change, those section 309 SIPs would have to contain extra work by States to determine significance, work that the current data shows is unnecessary.

In regard to comment (2), EPA does not agree that making this change would constrain state authority in making “reasonable progress” determinations. We do not agree with CEED that greater public input is needed from western States on this point; we believe by specifically requesting this change, the WRAP has made it quite clear that western States (and tribes) need it. We believe that CEED’s claim in comment (3), that it is not “clear that all WRAP States and tribes authorized such a request”, is disingenuous at best. Representatives of the WRAP have assured us that the WRAP discussed this request at length. The WRAP requested this change, in writing, on behalf of its member States and tribes, and we have not heard of any member State or tribe objecting in any way.

In regard to comment (4), we do not believe that removing an unneeded requirement from a voluntary program circumvents the Arizona legislature in any way.

The Colorado Mining Association asserted that we should make available for public review the assumptions and model inputs that support our projections. In regard to this comment, as noted in footnote 4 of the proposed rule, the WRAP used EPA’s MOBILE6 and MOBILE6.2 models for on-highway vehicles and the NONROAD model for nonroad vehicles. The assumptions and model inputs for these models have undergone numerous public workshops and reviews, as described in detail on our Web site, <http://www.epa.gov/otaq/models/mobile6/m6wkshop.htm>.

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). A copy of this ICR may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566-1672.

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.