ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2011-0114; FRL-9670-6]

Approval, Disapproval and Promulgation of State Implementation Plans; State of Utah; Regional Haze Rule Requirements for Mandatory Class I Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove a State Implementation Plan (SIP) revision submitted by the State of Utah on May 26, 2011 that addresses regional haze. EPA is also proposing to approve specific sections of a State of Utah SIP revision submitted on September 9, 2008 to address regional haze. These SIP revisions were submitted to address the requirements of the Clean Air Act (CAA or Act) and our rules that require states to prevent any future and remedy any existing man-made impairment of visibility in mandatory Class I areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program"). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is taking this action pursuant to section 110 of the CAA.

DATES: Comments must be received on or before [Insert date 60 days after publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2011-0114, by one of the following methods:

- http://www.regulations.gov. Follow the on-line instructions for submitting

comments.

- E-mail: r8airrulemakings@epa.gov
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2011-0114. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at http://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through http://www.regulations.gov or e-mail. The http://www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through http://www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket

and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the http://www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in http://www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-6144, dygowski.laurel@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

i. The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.

ii. The initials BART mean or refer to Best Available Retrofit Technology.

iii. The initials CAC mean or refer to clean air corridors.

iv. The initials CEED mean or refer to the Center for Energy and Economic Development.

v. The initials EC mean or refer to elemental carbon.

vi. The initials EGUs mean or refer to electric generating units.

vii. The initials EATS mean or refer to Emissions and Allowance Tracking System.

viii. The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.

ix. The initials GCVTC mean or refer to the Grand Canyon Visibility Transport Commission.

x. The initials IMPROVE mean or refer to Interagency Monitoring of Protected Visual Environments monitoring network.

xi. The initials IWAQM mean or refer to Interagency Workgroup on Air Quality Modeling.

xii. The initials MRR mean or refer to monitoring, recordkeeping, and reporting.

xiii. The initials LNB mean or refer to low NO_x burner.

xiv. The initials NO_x mean or refer to nitrogen oxides.

xv. The initials OC mean or refer to organic carbon.

xvi. The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers.

xvii. The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than 10 micrometers.

xviii. The initials RHR mean or refer to the Regional Haze Rule.

xix. The initials RMC mean or refer to the Regional Modeling Center.

xx. The initials RPO mean or refer to regional planning organization.

xxi. The initials SIP mean or refer to State Implementation Plan.

xxii. The initials SO_2 mean or refer to sulfur dioxide.

xxiii. The initials SOFA mean or refer to separated overfire air.

xxiv. The initials TSA mean or refer to the tracking system administrator.

xxv. The initials TSD mean or refer to Technical Support Document.

xxvi. The words Utah or State mean or refer to the State of Utah.

xxvii. The initials UAR mean or refer to the Utah Administrative Rules.

xxviii. The initials VOC mean or refer to volatile organic compounds.

xxix. The initials WRAP mean or refer to the Western Regional Air Partnership.

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I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through http://www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that

includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments*. When submitting comments, remember to:

   a. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).

   b. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

   c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

   d. Describe any assumptions and provide any technical information and/or data that you used.

   e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

   f. Provide specific examples to illustrate your concerns, and suggest alternatives.

   g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

   h. Make sure to submit your comments by the comment period deadline identified.

B. Overview of Proposed Action

In this action, EPA is proposing to partially approve and partially disapprove a State of Utah SIP revision submitted on May 26, 2011 that addresses the regional haze rule (RHR) requirements for the mandatory Class I areas under 40 CFR 51.309. Specifically, EPA is

proposing to approve all sections of the SIP submittal as meeting the requirements under 40 CFR 51.309, with the exception of the requirements under 40 CFR 51.309(d)(4)(vii) pertaining to nitrogen oxides (NO_x) and particulate matter (PM) best available retrofit technology (BART). EPA is proposing to disapprove the State's NO_x and PM BART determinations and limits in section D.6.d of the SIP for the following four subject-to-BART EGUs: PacifiCorp Hunter Unit 1, PacifiCorp Hunter Unit 2, PacifiCorp Huntington Unit 1, and PacifiCorp Huntington Unit 2. EPA is proposing to disapprove these BART determinations because they do not comply with our regulations under 40 CFR 51.308(e)(1)(ii)(A). EPA is also proposing to disapprove the State's SIP because it does not contain the provisions necessary to make BART limits practically enforceable as required by section 110(a)(2) of the CAA and Appendix V to part 51.

We are taking no action on section G – *Long-Term Strategy for Fire Programs* of the May 26, 2011 submittal as we have proposed approval of this section in a separate notice (76 FR 69217, November 8, 2011).

We are proposing to approve specific sections of the State's September 9, 2008 SIP submittal. Specifically, we are proposing to approve Utah Administrative Rules (UAR) R307-250 - *Western Backstop Sulfur Dioxide Trading Program* and R307-250 - *Emission Inventories.* R307-250, in conjunction with the SIP, implements the backstop trading program provisions in accordance with the requirements of the RHR under 40 CFR 51.309. The purpose of R305-250 is to establish consistent emission inventory reporting requirements for stationary sources in Utah to determine whether sulfur dioxide (SO_2) emissions are below the SO_2 milestones established for the trading program. We are taking no action on the rest of the September 9, 2008 submittal as the May 26, 2011 submittal supersedes and replaces the remaining sections of the September 9, 2008 SIP submittal. The State also submitted SIPs on December 12, 2003 and

August 8, 2004 to meet the requirements of the RHR. These submittals have been superseded and replaced by the September 9, 2008 and May 26, 2011 submittals.

As explained in further detail below, 40 CFR 51.309 (section 309) allows western states an optional way to fulfill the RHR requirements as opposed to adopting the requirements under 40 CFR 51.308. Three states have elected to submit a SIP under 40 CFR 51.309. Those states are Wyoming, Utah, and New Mexico.[1] In this action, EPA is proposing to approve Utah's section 309 SIP submittal. As required by 40 CFR 51.309, the participating states must adopt a trading program, or what has been termed the Western Backstop Sulfur Dioxide Trading Program (backstop trading program or trading program). The 309 backstop trading program will not be effective until EPA has finalized action on all section 309 SIPs as the program is dependent on the participation of the three states. Wyoming submitted its 309 SIP to EPA on January 12, 2011, and New Mexico submitted its 309 SIP to EPA on June 30, 2011. EPA will be taking action on Wyoming and New Mexico's 309 SIPs separately. If EPA takes action approving the necessary components of the 309 backstop trading program to operate in all of the jurisdictions electing to submit 309 SIPs, the trading program will become effective.

II. Background Information

A. Regional Haze

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles ($PM_{2.5}$) (e.g.,

[1] In addition to the SIP submittals from the three states, Albuquerque/Bernalillo County in New Mexico must also submit a Section 309 RH SIP to completely satisfy the requirements of section 110(a)(2)(D) of the CAA for the entire State of New Mexico under the New Mexico Air Quality Control Act (section 74-2-4). Albuquerque submitted its regional haze SIP to EPA on June 8, 2011. When we refer to New Mexico in this notice, we are also referring to Albuquerque/Bernalillo County.

sulfates, nitrates, organic carbon (OC), elemental carbon (EC), and soil dust), and their precursors (e.g., SO_2, NO_x, and in some cases, ammonia (NH_3) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form $PM_{2.5}$, which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, the "Interagency Monitoring of Protected Visual Environments" (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national park and wilderness areas. The average visual range[2] in many Class I areas (i.e., national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100-150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range is less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. 64 FR 35715 (July 1, 1999).

B. Requirements of the CAA and EPA's Regional Haze Rule

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas[3] which impairment results from

[2] Visual range is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky.
[3] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on

manmade air pollution." On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is "reasonably attributable" to a single source or small group of sources, i.e., "reasonably attributable visibility impairment." 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999. 64 FR 35714 (July 1, 1999, codified at 40 CFR part 51, subpart P). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300-309. Some of the main elements of the regional haze requirements under 40 CFR 51.309 are summarized in sections III and IV of this preamble. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia and the Virgin Islands. 40

August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas." Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term "Class I area" in this action, we mean a "mandatory Class I Federal area."

CFR 51.308(b) and 40 CFR 51.309(c) require states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.[4]

C. Roles of Agencies in Addressing Regional Haze

Successful implementation of the regional haze program will require long-term regional coordination among states, tribal governments and various federal agencies. As noted above, pollution affecting the air quality in Class I areas can be transported over long distances, even hundreds of kilometers. Therefore, to effectively address the problem of visibility impairment in Class I areas, states need to develop strategies in coordination with one another, taking into account the effect of emissions from one jurisdiction on the air quality in another.

Because the pollutants that lead to regional haze can originate from sources located across broad geographic areas, EPA has encouraged the states and tribes across the United States to address visibility impairment from a regional perspective. Five regional planning organizations (RPOs) were developed to address regional haze and related issues. The RPOs first evaluated technical information to better understand how their states and tribes impact Class I areas across the country, and then pursued the development of regional strategies to reduce emissions of PM and other pollutants leading to regional haze.

The Western Regional Air Partnership (WRAP) RPO is a collaborative effort of state governments, tribal governments, and various federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility and other air quality issues in the western United States. WRAP member state governments include: Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South

[4] EPA's regional haze regulations require subsequent updates to the regional haze SIPs. 40 CFR 51.308(g) – (i).

Dakota, Utah, Washington, and Wyoming. Tribal members include Campo Band of Kumeyaay Indians, Confederated Salish and Kootenai Tribes, Cortina Indian Rancheria, Hopi Tribe, Hualapai Nation of the Grand Canyon, Native Village of Shungnak, Nez Perce Tribe, Northern Cheyenne Tribe, Pueblo of Acoma, Pueblo of San Felipe, and Shoshone-Bannock Tribes of Fort Hall.

D. Development of the Requirements for 40 CFR 51.309

EPA's RHR provides two paths to address regional haze. One is 40 CFR 51.308, requiring states to perform individual point source BART determinations and evaluate the need for other control strategies. These strategies must be shown to make "reasonable progress" in improving visibility in Class I areas inside the state and in neighboring jurisdictions. The other method for addressing regional haze is through 40 CFR 51.309, and is an option for nine states termed the "Transport Region States" which include: Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming, and the 211 tribes located within those states. By meeting the requirements under 40 CFR 51.309, states are making reasonable progress toward the national goal of achieving natural visibility conditions for the 16 Class I areas on the Colorado Plateau.

Section 309 requires participating states to adopt regional haze strategies that are based on recommendations from the Grand Canyon Visibility Transport Commission (GCVTC) for protecting the 16 Class I areas on the Colorado Plateau.[5] The EPA established the GCVTC on

[5] The Colorado Plateau is a high, semi-arid tableland in southeast Utah, northern Arizona, northwest New Mexico, and western Colorado. The 16 mandatory Class I areas are as follows: Grand Canyon National Park, Mount Baldy Wilderness, Petrified Forest National Park, Sycamore Canyon Wilderness, Black Canyon of the Gunnison National Park Wilderness, Flat Tops Wilderness, Maroon Bells Wilderness, Mesa Verde National Park, Weminuche Wilderness, West Elk Wilderness, San Pedro Parks Wilderness, Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park, and Zion National Park.

November 13, 1991. The purpose of the GCVTC was to assess information about the adverse impacts on visibility in and around the 16 Class I areas on the Colorado Plateau and to provide policy recommendations to EPA to address such impacts. Section 169B of the CAA called for the GCVTC to evaluate visibility research, as well as other available information, pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the region. The GCVTC determined that all transport region states could potentially impact visibility in the Class I areas on the Colorado Plateau. The GCVTC submitted a report to EPA in 1996 with its policy recommendations for protecting visibility for the Class I areas on the Colorado Plateau. Provisions of the 1996 GCVTC report include: strategies for addressing smoke emissions from wildland fires and agricultural burning; provisions to prevent pollution by encouraging renewable energy development; and provisions to manage clean air corridors (CACs), mobile sources, and wind-blown dust, among other things. The EPA codified these recommendations as part of the 1999 RHR. 64 FR 35714 (July 1, 1999).

EPA determined that the GCVTC strategies would provide for reasonable progress in mitigating regional haze if supplemented by an annex containing quantitative emission reduction milestones and provisions for a trading program or other alternative measure (64 FR 35749 and 35756). Thus, the 1999 RHR required that western states submit an annex to the GCVTC report with quantitative milestones and detailed guidelines for an alternative program in order to establish the GCVTC recommendations as an alternative approach to fulfilling the section 308 requirements for compliance with the RHR. In September 2000, the WRAP, which is the successor organization to the GCVTC, submitted an annex to EPA. The annex contained SO_2 emission reduction milestones and the detailed provisions of a backstop trading program to be

implemented automatically if voluntary measures failed to achieve the SO_2 milestones. EPA codified the annex on June 5, 2003 at 40 CFR 51.309(h). 68 FR 33764.

Five western states submitted implementation plans under section 309 in 2003. EPA was challenged by the Center for Energy and Economic Development (CEED) on the validity of the annex provisions. In *CEED v. EPA*, the D.C. Circuit vacated EPA's approval of the WRAP annex (*Center for Energy and Economic Development v. EPA*, No. 03-1222 (D.C. Cir. Feb. 18, 2005)). In response to the court's decision, EPA vacated the annex requirements adopted as 40 CFR 51.309(h), but left in place the stationary source requirements in 40 CFR 51.309(d)(4). 71 FR 60612. The requirements under 40 CFR 51.309(d)(4) contain general requirements pertaining to stationary sources and market trading, and allow states to adopt alternatives to the point source application of BART.

III. Requirements for Regional Haze SIPs Submitted under 40 CFR 51.309

The following is a summary and basic explanation of the regulations covered under section 51.309 of the RHR. See 40 CFR 51.309 for a complete listing of the regulations under which this SIP was evaluated.

A. Projection of Visibility Improvement

For each of the 16 Class I areas located on the Colorado Plateau, the SIP must include a projection of the improvement in visibility expressed in deciviews. 40 CFR 51.309(d)(2). The RHR establishes the deciview as the principal metric or unit for expressing visibility. *See* 70 FR 39104, 39118. This visibility metric expresses uniform changes in the degree of haze in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Visibility expressed in deciviews is determined by using air quality measurements to estimate light extinction and then transforming the value of light extinction

using a logarithm function. The deciview is a more useful measure for tracking progress in improving visibility than light extinction itself because each deciview change is an equal incremental change in visibility perceived by the human eye. Most people can detect a change in visibility at one deciview.[6] States need to show the projected visibility improvement for the best and worst 20 percent days through the year 2018, based on the application of all section 309 control strategies.

B. Clean Air Corridors (CACs)

Pursuant to 40 CFR 51.309(d)(3), states must identify CACs. CACs are geographic areas located within transport region states that contribute to the best visibility days (least impaired) in the 16 Class I areas on the Colorado Plateau. The CAC as described in the 1996 GCVTC report covers nearly all of Nevada, large portions of Oregon, Idaho, and Utah, and encompasses several Indian nations. In order to meet the RHR requirements for CACs, states must adopt a comprehensive emissions tracking program for all visibility impairing pollutants within the CAC. Based on the emissions tracking, states must identify overall emissions growth or specific areas of emissions growth in and outside of the CAC that could be significant enough to result in visibility impairment at one or more of the 16 Class I areas. If there is visibility impairment in the CAC, states must conduct an analysis of the potential impact in the 16 Class I areas and determine if additional emission control measures are needed and how these measures would be implemented. States must also indicate in their SIP if any other CACs exist, and if others are found, provide necessary measures to protect against future degradation of visibility in the 16 Class I areas.

[6] The preamble to the RHR provides additional details about the deciview. 64 FR 35714, 35725 (July 1, 1999).

C. Stationary Source Reductions

1. Sulfur Dioxide Emission Reductions

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address their visibility impacts. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate BART as determined by the state. Under the RHR, states are directed to conduct BART determinations for such "BART-eligible" sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area.

Rather than requiring source-specific BART controls, states have the flexibility under section 309 to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress than would be achieved by the application of BART pursuant to 40 CFR 51.309(e)(2). Under 40 CFR 51.309, states can satisfy the section 308 SO_2 BART requirements by adopting SO_2 emission milestones and a backstop trading program. 40 CFR 51.309(d)(4). Under this approach, states must establish declining SO_2 emission milestones for each year of the program through 2018. The milestones must be consistent with the GCVTC's goal of 50 to 70 percent reduction in SO_2 emissions by 2040. If the milestones are exceeded in any year, the backstop trading program is triggered.

Pursuant to 40 CFR 51.309(d)(4)(ii)-(iv), states must include requirements in the SIP that allow states to determine whether the milestone has been exceeded. These requirements include documentation of the baseline emission calculation, monitoring, recordkeeping, and reporting (MRR) of SO_2 emissions, and provisions for conducting an annual evaluation to determine

whether the milestone has been exceeded. SIPs must also contain requirements for implementing the backstop trading program in the event that the milestone is exceeded and the program is triggered. 40 CFR 51.309(d)(4)(v).

The WRAP, in conjunction with EPA, developed a model for a backstop trading program. In order to ensure consistency between states, states opting to participate in the 309 program need to adopt rules that are substantively equivalent to the model rules for the backstop trading program to meet the requirements of 40 CFR 51.309(d)(4). The trading program must also be implemented no later than 15 months after the end of the first year that the milestone is exceeded, require that sources hold allowances to cover their emissions, and provide a framework, including financial penalties, to ensure that the 2018 milestone is met.

2. Provisions for Stationary Source Emissions of Nitrogen Oxides and Particulate Matter

Pursuant to 40 CFR 51.309(d)(4)(vii), a section 309 SIP must contain any necessary long term strategies and BART requirements for PM and NO_x. Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources[7] built between 1962 and 1977 procure, install, and operate the "Best Available Retrofit Technology" as determined by the state. Under the RHR, states are directed to conduct BART determinations for such "BART-

[7] The set of "major stationary sources" potentially subject-to-BART is listed in CAA section 169A(g)(7).

eligible" sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area.

On July 6, 2005, EPA published the *Guidelines for BART Determinations Under the Regional Haze Rule* at appendix Y to 40 CFR part 51 (hereinafter referred to as the "BART Guidelines") to assist states in determining which of their sources should be subject to the BART requirements and in determining appropriate emission limits for each applicable source. 70 FR 39104. In making a BART determination for a fossil fuel-fired electric generating plant with a total generating capacity in excess of 750 megawatts (MW), a state must use the approach set forth in the BART Guidelines. A state is encouraged, but not required, to follow the BART Guidelines in making BART determinations for other types of sources. Regardless of source size or type, a state must meet the requirements of the CAA and our regulations for selection of BART, and the state's BART analysis and determination must be reasonable in light of the overarching purpose of the regional haze program.

The process of establishing BART emission limitations can be logically broken down into three steps: first, states identify those sources which meet the definition of "BART-eligible source" set forth in 40 CFR 51.301;[8] second, states determine which of such sources "emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area" (a source which fits this description is "subject-to-BART"); and third, for each source subject-to-BART, states then identify the best available type and level of control for reducing emissions.

[8] BART-eligible sources are those sources that have the potential to emit 250 tons or more of a visibility-impairing air pollutant, were not in operation prior to August 7, 1962, but were in existence on August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories. 40 CFR 51.301.

States must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility impairing pollutants are SO_2, NO_x, and PM. EPA has stated that states should use their best judgment in determining whether VOC or NH_3 compounds impair visibility in Class I areas.

Under the BART Guidelines, states may select an exemption threshold value for their BART modeling, below which a BART-eligible source would not be expected to cause or contribute to visibility impairment in any Class I area. The state must document this exemption threshold value in the SIP and must state the basis for its selection of that value. Any source with emissions that model above the threshold value would be subject to a BART determination review. The BART Guidelines acknowledge varying circumstances affecting different Class I areas. States should consider the number of emission sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts. Any exemption threshold set by the state should not be higher than 0.5 deciview. 40 CFR part 51, appendix Y, section III.A.1.

In their SIPs, states must identify the sources that are subject-to-BART and document their BART control determination analyses for such sources. In making their BART determinations, section 169A(g)(2) of the CAA requires that states consider the following factors when evaluating potential control technologies: 1) the costs of compliance; 2) the energy and non-air quality environmental impacts of compliance; 3) any existing pollution control technology in use at the source; 4) the remaining useful life of the source; and 5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

A regional haze SIP must include source-specific BART emission limits and compliance schedules for each source subject-to-BART. Once a state has made its BART determination, the

BART controls must be installed and in operation as expeditiously as practicable, but no later than five years after the date of EPA approval of the regional haze SIP. CAA section 169(g)(4) and 40 CFR 51.308(e)(1)(iv). In addition to what is required by the RHR, general SIP requirements mandate that the SIP must also include all regulatory requirements related to MRR for the BART controls on the source. *See* CAA section 110(a). As noted above, the RHR allows states to implement an alternative program in lieu of BART so long as the alternative program can be demonstrated to achieve greater reasonable progress toward the national visibility goal than would BART.

D. Mobile Sources

Under 40 CFR 51.309(d)(5), states must provide inventories of on-road and non-road mobile source emissions of VOCs, NO_x, SO_2, $PM_{2.5}$, EC, and OC for the years 2003, 2008, 2013, and 2018. The inventories must show a continuous decline in total mobile source emissions of each of the above pollutants. If the inventories show a continuous decline in total mobile source emissions of each of these pollutants over the period 2003-2018, a state is not required to take further action in their SIP. 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, a state must submit a SIP that contains measures that will achieve a continuous decline.

The SIP must also contain any long-term strategies necessary to reduce emissions of SO_2 from non-road 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 non-road diesel fuel. Section 309 SIPs must provide an update on any additional mobile source strategies implemented within the state related to the GCVTC 1996 recommendations on mobile sources.

E. Programs Related to Fire

Pursuant to 40 CFR 51.309(d)(6), SIPs must contain requirements for programs related to fire. The SIP must show that the state's smoke management program, and all federal or private programs for prescribed fire in the state, have a mechanism in place for evaluating and addressing the degree of visibility impairment from smoke in their planning and application of burning. The state must also ensure that its prescribed fire smoke management programs have at least the following seven elements: 1) actions to minimize emissions; 2) evaluation of smoke dispersion; 3) alternatives to fire; 4) public notification; 5) air quality monitoring; 6) surveillance and enforcement; and 7) program evaluation. The state must be able to track statewide emissions of VOC, NO_x, EC, OC, and $PM_{2.5}$ emissions from prescribed burning in its state.

Other requirements states must meet in their 309 plan related to fire include the adoption of a statewide process for gathering post-burn activity information to support emissions inventory and tracking systems. States must identify existing administrative barriers to the use of non-burning alternatives and adopt a process for continuing to identify and remove administrative barriers where feasible. The SIP must include an enhanced smoke management program that considers visibility effects in addition to health objectives and is based on the criteria of efficiency, economics, law, emission reduction opportunities, land management objectives, and reduction of visibility impairment. Finally, a state must establish annual emission goals to minimize emission increases from fire.

F. Paved and Unpaved Road Dust

Under 40 CFR 51.309(d)(7), states must submit a SIP that assesses the impact of dust emissions on regional haze in the 16 Class I areas on the Colorado Plateau and to include a

projection of visibility conditions through 2018 for the least and most impaired days. If dust emissions are determined to be a significant contributor to visibility impairment, the state must include emissions management strategies in the SIP to address their impact.

G. Pollution Prevention

The requirements under the RHR for pollution prevention only require the state to provide an assessment of the energy programs as outlined in 40 CFR 51.309(d)(8) and does not require a state to adopt any specific energy-related strategies or regulations for regional haze. In order to meet the requirements related to pollution prevention, the state's plan must include an initial summary of all pollution prevention programs currently in place, an inventory of all renewable energy generation capacity and production in use or planned as of the year 2002, the total energy generation capacity and production for the state, and the percent of the total that is renewable energy.

The state's plan must include a discussion of programs that provide incentives for efforts that go beyond compliance and/or achieve early compliance with air-pollution related requirements and programs to preserve and expand energy conservation efforts. The state must identify specific areas where renewable energy has the potential to supply power where it is now lacking and where renewable energy is most cost-effective. The state must include projections of the short and long-term emissions reductions, visibility improvements, cost savings, and secondary benefits associated with renewable energy goals, energy efficiency, and pollution prevention activities. The state must also provide its anticipated contribution toward the GCVTC renewable energy goals for 2005 and 2015. The GCVTC goals are that renewable energy will comprise 10 percent of the regional power needs by 2005 and 20 percent by 2015.

H. Additional Recommendations

Section 309 requires states to determine if any of the other recommendations not codified by EPA as part of 40 CFR 51.309 should be implemented in their SIP. 40 CFR 51.309(d)(9). States are not required to adopt any additional control measures unless the state determines they are appropriate and can be practicably included as enforceable measures to remedy regional haze in the 16 Class I areas. Any measures adopted by a state would need to be enforceable. States must also submit a report to EPA and the public in 2013 and 2018 showing there has been an evaluation of the additional recommendations and the progress toward developing and implementing any such recommendations.

I. Periodic Implementation Plan Revisions

Under 40 CFR 51.309(d)(10), states must submit progress reports in the form of SIP revisions in 2013 and 2018. The SIP revisions must comply with the procedural requirements of 40 CFR 51.102 for public hearings and 40 CFR 51.103 for submission of plans. The assessment in the progress report must include an evaluation of Class I areas located within the state and Class I areas outside the state that are affected by emissions from the state. EPA views these SIP revisions as a periodic check on progress, rather than a thorough revision of regional strategies. The state should focus on significant shortcomings of the original SIP from sources that were not fully accounted for or anticipated when the SIP was initially developed. The specifics of what each progress report must contain can be found at 40 CFR 51.509(d)(10)(i)(A)-(G).

At the same time that the state submits its progress report to EPA, it must also take an action based on the outcome of the assessment in the report. If the assessment shows that the SIP is adequate and requires no substantive revision, the state must submit to EPA a "negative declaration" statement saying that no further SIP revisions are necessary at this time. If the assessment shows that the SIP is or may be inadequate due to emissions from outside the state,

the state must notify EPA and other regional planning states and work with them to develop additional control strategies. If the assessment shows that the SIP is or may be inadequate due to emissions from another country, the state must include appropriate notification to EPA in its SIP revision. In the event the assessment shows that the SIP is or may be inadequate due to emissions from within the state, the state shall develop additional strategies to address the deficiencies and revise the SIP within one year from the due date of the progress report.

J. Interstate Coordination

In complying with the requirements of 40 CFR 51.309(d)(11), states may include emission reductions strategies that are based on coordinated implementation with other states. The SIP must include documentation of the technical and policy basis for the individual state apportionment (or the procedures for apportionment throughout the trans-boundary region), the contribution addressed by the state's plan, how it coordinates with other state plans, and compliance with any other appropriate implementation plan approvability criteria. States may rely on the relevant technical, policy, and other analyses developed by a regional entity, such as the WRAP in providing such documentation.

IV. Additional Requirements for Alternative Programs under the Regional Haze Rule

States opting to submit an alternative program, such as the backstop trading program under section 309, must also meet requirements under 40 CFR 51.308(e)(2) and (e)(3). These requirements for alternative programs relate to the "better-than-BART" test and fundamental elements of any alternative program that establishes a cap on emissions.

A. "Better-than-BART" Demonstration

In order to demonstrate that the alternative program achieves greater reasonable progress than source-specific BART, states must provide a demonstration in their SIP that meets the

requirements in 40 CFR 51.308(e)(2)(i)-(v). States submitting section 309 SIPs or other alternative programs are required to list all BART-eligible sources and categories covered by the alternative program. States are then required to determine which BART-eligible sources are "subject-to-BART." The SIP must provide an analysis of the best system of continuous emission control technology available and the associated reductions for each source subject-to-BART covered by the alternative program, or what is termed a "BART benchmark." Where the alternative program, such as the 309 backstop trading program, has been designed to meet requirements other than BART, states may use simplifying assumptions in establishing a BART benchmark. These assumptions can provide the baseline to show that the alternative program achieves greater reasonable progress than BART (71 FR 60619). Under this approach, states should use the presumptive limits for EGUs in the BART Guidelines to establish the BART benchmark used in the comparison, unless the state determines that such presumptions are not appropriate for particular EGUs (70 FR 60619).

The SIP must provide an analysis of the projected emissions reductions achievable through the trading program or other alternative measure and a determination that the trading program or other alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART pursuant to 40 CFR 51.308(e)(1). 40 CFR 308(e)(2)(i)(D) – (E). Under 40 CFR 51.308(e)(2)(iii) – (iv), all emission reductions for the alternative program must take place by 2018, and all the emission reductions resulting from the alternative program must be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP. Pursuant to 40 CFR 51.309(e)(2)(v), states have the option of including a provision that the emissions trading program or other alternative measure include a geographic enhancement to the program to address the requirement

under 40 CFR 51.302(c) related to BART for reasonably attributable visibility impairment from the pollutants covered under the emissions trading program or other alternative measure.

States must also address the distribution of emissions under the BART alternative as part of the better-than-BART demonstration. 40 CFR 51.308(e)(3). If a state can show that with the alternative program the distribution of emissions is not substantially different from source-specific BART, and the alternative program results in greater emission reductions than source-specific BART, then the alternative measure may be deemed to achieve greater reasonable progress. If the distribution of emissions is significantly different, the state must conduct dispersion modeling to determine differences in visibility between source-specific BART and the alternative program for each impacted Class I area for the 20% worst and best days. The modeling must show that visibility does not decline at any Class I area and that visibility overall is greater than what would be achieved with source-specific BART.

B. Elements Required for All Alternative Programs that have an Emissions Cap

Under 40 CFR 51.308(e)(2)(vi)(A) – (L), EPA established fundamental requirements for trading or alternative programs that have an emissions cap and require sources to hold allowances that they can sell, buy, or trade, as in the case for the 309 backstop trading program. These requirements are summarized below.

1. Applicability

The alternative program must have applicability provisions that define the sources subject to the program. In the case of a program covering sources in multiple states, the states must demonstrate that the applicability provisions in each state cover essentially the same size facilities and, if source categories are specified, cover the same source categories.

2. Allowances

Allowances are a key feature of a cap and trade program. An allowance is a limited authorization for a source to emit a specified amount of a pollutant, as defined by the specific trading program, during a specified period. Allowances are fully marketable commodities. Once allocated, allowances may be bought, sold, traded, or banked for use in future years. EPA has not included in the rule detailed requirements on how states and tribes can allocate allowances. A state or tribe can determine how to allocate allowances as long as the allocation of the tonnage value of allowances does not exceed the total number of tons of emissions capped by the budget. The trading program must include allowance provisions ensuring that the total value of allowances issued each year under the program will not exceed the emissions cap on total annual emissions from the sources in the program.

3. Monitoring, Recordkeeping, and Reporting

MRR of a source's emissions are integral parts of any cap and trade program. Consistent and accurate measurement of emissions ensures that each allowance actually represents its specified tonnage value of emissions and that one ton of reported emissions from one source is equivalent to one ton of reported emissions at another source. The MRR provisions must require that boilers, combustion turbines, and cement kilns in the alternative program that are allowed to sell or transfer allowances comply with the requirements of 40 CFR part 75. The MRR provisions must require that other sources in the program allowed to sell or transfer allowances provide emissions information with the same precision, reliability, accessibility, and timeliness as information required by 40 CFR part 75.

4. Tracking System

An accurate and efficient tracking system is critical to the functioning of an emissions trading market. The tracking system must also be transparent, allowing all interested parties

access to the information contained in the accounting system. Thus, alternative programs must have requirements for a tracking system that is publicly available in a secure, centralized database to track in a consistent manner all allowances and emissions in the program.

5. Account Representative

Each source owner or operator covered by the alternative program must designate an individual account representative who is authorized to represent the owner or operator in all matters pertaining to the trading program and who is responsible for the data reported for that source. The account representative will be responsible for, among other things, permitting, compliance, and allowance related actions.

6. Allowance Transfer

SIPs must contain provisions detailing a uniform process for transferring allowances among all sources covered by the program and other possible participants. The provisions must provide procedures for sources to request an allowance transfer, for the request and transfer to be recorded in the allowance tracking system, for notification to the source that the transfer has occurred, and for notification to the public of each transfer and request.

7. Compliance Provisions

Cap and trade programs must include compliance provisions that prohibit a source from emitting more emissions than the total tonnage value of allowances the source holds for that year. A cap and trade program must also contain the specific methods and procedures for determining compliance on an annual basis.

8. Penalty Provisions

In order to provide sources with a strong incentive to comply with the requirement to hold sufficient allowances for their emissions on an annual basis and to establish an immediate

minimum economic consequence for non-compliance, the program must include a system for mandatory allowance deductions. SIPs must contain a provision that if a source has excess emissions in a given year, allowances allocated for the subsequent year will be deducted from the source's account in an amount at least equal to three times the excess emissions.

9. Banking of Allowances

The banking of allowances occurs when allowances that have not been used for compliance are set aside for use in a later compliance period. Alternative programs can include provisions for banked allowances, so long as the SIP clearly identifies how unused allowances may be used in future years and whether there are any restrictions on the use of any such banked allowances.

10. Program Assessment

The alternative program must include provisions for periodic assessment of the program. Such periodic assessments are a way to retrospectively assess the performance of the trading program in meeting the goals of the regional haze program and determining whether the trading program needs any adjustments or changes. At a minimum, the program evaluation must be conducted every five years to coincide with the periodic report describing progress towards the reasonable progress goals required under 40 CFR 51.308(g) and must be submitted to EPA.

V. Our Analysis of Utah's Submittal

The following summarizes how we are proposing that Utah's May 26, 2011 and September 9, 2008 SIP submittals meet and do not meet the requirements of the RHR, sections 169A(g)(2) and 110(a)(2) of the CAA, and Appendix V to part 51.

A. Projection of Visibility Improvement

Pursuant to 40 CFR 51.309(d)(2), Utah provided a comparison of the monitored 2000-2004 baseline visibility conditions in deciviews for the 20 percent best and 20 percent worst days to the projected visibility improvement for 2018 for the Class I areas on the Colorado Plateau (see section K.2 of the SIP). Table 1 shows the State's baseline monitoring data and projected visibility improvement for 2018 from the WRAP photochemical modeling (for details on the WRAP emission inventories and photochemical modeling refer to the WRAP Technical Support Document (TSD)[9] and our review of the technical products developed by the WRAP for the states in the western region, in support of their regional haze SIPs).[10] The projected visibility improvement for the 2018 Base Case (referred to as the Base18b emission inventory and modeled projections) reflects growth plus all controls "on the books" as of December 2004. The projected visibility improvement for the Preliminary Reasonable Progress Case (referred to as the PRP18b emission inventory and modeled projections) reflects refined growth estimates, all controls "on the books" as of 2007, and includes presumptive or known SO_2 BART controls. The modeling results show projected visibility improvement for the 20 percent worst days in 2018 and no degradation in visibility conditions on the 20 percent best days at all 16 Class I areas on the Colorado Plateau. We are proposing to determine the State's SIP satisfies the requirements of 40 CFR 51.309(d)(2).

Table 1 – Baseline and 2018 Visibility at the Colorado Plateau Class I Areas

	20 percent Worst Visibility Days	20 percent Best Visibility Days

[9] *WRAP Regional Technical Support Document for the Requirements of §309 of the Regional Haze Rule (64 Federal Register 35714 – July 1, 1999)*, revised May 7, 2008, which can be found in the State's TSD included in the docket for this action.

[10] Our review of the technical products developed by the WRAP is available as *Technical Support Document for Technical Products Prepared by the Western Regional Air Partnership (WRAP) in Support of Western Regional Haze Plans*, February 28, 2011, which can be found in the Supporting and Related Materials section of the docket for this action.

Class I Area	State	2000-2004 Baseline Monitoring Data (deciview)	2018 Base Case (deciview)	2018 Preliminary Reasonable Progress Case (deciview)	2000-2004 Baseline Monitoring Data (deciview)	2018 Base Case (deciview)	2018 Preliminary Reasonable Progress Case (deciview)
Grand Canyon National Park	AZ	11.7	11.4	11.3	2.2	2.2	2.1
Mount Baldy Wilderness	AZ	11.9	11.5	11.4	3.0	2.9	2.8
Petrified Forest National Park	AZ	13.2	12.9	12.9	5.0	4.9	4.8
Sycamore Canyon Wilderness	AZ	15.3	15.1	15.1	5.6	5.6	5.6
Black Canyon of the Gunnison National Park Wilderness	CO	10.3	10.1	9.9	3.1	2.9	2.9
Flat Tops Wilderness	CO	9.6	9.2	9.0	0.7	0.6	0.5
Maroon Bells Wilderness	CO	9.6	9.2	9.0	0.7	0.6	0.5
Mesa Verde National Park	CO	13.0	12.8	12.6	4.3	4.1	4.0
Weminuche Wilderness	CO	10.3	10.1	9.9	3.1	2.9	2.9
West Elk Wilderness	CO	9.6	9.2	9.0	0.7	0.6	0.5
San Pedro Parks Wilderness	NM	10.2	10.0	9.8	1.5	1.3	1.2
Arches National Park	UT	11.2	11.0	10.9	3.8	3.6	3.5
Bryce Canyon National Park	UT	11.6	11.3	11.2	2.8	2.7	2.6
Canyonlands National Park	UT	11.2	11.0	10.9	3.8	3.6	3.5
Capitol Reef National Park	UT	10.9	10.6	10.5	4.1	4.0	3.9
Zion National Park	UT	13.2	13.0	13.0	5.0	4.7	4.7

B. Clean Air Corridors

1. Comprehensive Emissions Tracking Program

Pursuant to 40 CFR 51.309(d)(3), Utah is using a comprehensive emissions tracking system established by WRAP to track emissions within portions of Oregon, Idaho, Nevada and Utah that have been identified as part of the CAC (see section C.3.a of the SIP). The emission tracking is to ensure that visibility does not degrade on the least-impaired days in any of the 16 Class I areas of the Colorado Plateau. For a complete description of the emission tracking

system and the process by which the annual emission trends will be summarized in order to identify any significant emissions growth that could lead to visibility degradation in the 16 Class I areas, see section C of the State's TSD.

2. Identification of Clean Air Corridors

Pursuant to 40 CFR 51.309(d)(3)(i), the State has provided the geographic boundaries of the CAC (a map of the CAC can be found in section C, Figure 1 of the SIP). The WRAP identified the CAC using studies conducted by the Meteorological Subcommittee of the GCVTC and then updated the CAC based on an assessment described in the *WRAP Policy on Clean Air Corridors*. The policy is included in section C of the State's TSD. The technical studies and findings supporting the *WRAP Policy on Clean Air Corridors* are located in Chapter 3 of the WRAP TSD.

3. Patterns of Growth Within and Outside of the Clean Air Corridor

Pursuant to 40 CFR 51.309(d)(3)(ii)-(iii), the State has determined, based on the *WRAP Policy on Clean Air Corridors* and technical analysis conducted by the WRAP, that inside and outside the CAC there is no significant emissions growth occurring at this time that is causing visibility impairment in the 16 Class I areas of the Colorado Plateau. The WRAP will summarize annual emission trends within and outside of the CAC and will assess whether any significant emissions growth is occurring that could result in visibility impairment in any of the 16 Class I areas (see section C.3.b of the SIP).

4. Actions if Impairment Inside or Outside the Clean Air Corridor Occurs

The State, in coordination with other transport region states and tribes, will review the annual summary of emission trends within the CAC and determine whether any significant emissions growth has occurred. If the State identifies significant emissions growth, the State, in

coordination with other transport region states and tribes, will conduct an analysis of the effects of this emissions growth. Pursuant to 40 CFR 51.309(d)(3)(iv), if this analysis finds that the emissions growth is causing visibility impairment in the 16 Class I areas, the State will evaluate the need for additional emission reduction measures and identify an implementation schedule for such measures. The State will report on the need for additional reduction measures to EPA in accordance with the periodic progress reports required under 40 CFR 51.309(d)(10)(i) (see section C.3.d of the SIP).

5. Other Clean Air Corridors

Pursuant to 40 CFR 51.309(d)(3)(v), the State has concluded that no other CACs can be identified at this time. The State's conclusion is based on the *WRAP Policy on Clean Air Corridors,* which determined that no other CACs could be identified (see section C.2 of the SIP).

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.309(d)(3).

C. Stationary Source Reductions

1. Provisions for Stationary Source Emissions of Sulfur Dioxide

As required by 40 CFR 51.309(d)(4)(i), the State has adopted SO_2 milestone numbers for each year of the program until 2018 (see section E.1.a of the SIP).[11] Table 2 shows the milestone numbers and how compliance with the annual milestones will be determined.

Table 2 – SO_2 Emissions Milestones

Year	Regional sulfur dioxide milestone (tons per year (tpy))	Annual SO_2 emissions used to Determine Compliance with the

[11] The milestone numbers reflect the participation of Wyoming, Utah, and New Mexico, including Albuquerque-Bernalillo County in the 309 backstop trading program.

		Annual Milestones
2008	269,083 tons SO_2	Average of 2006, 2007 and 2008
2009	234,903 tons SO_2	Average of 2007, 2008 and 2009
2010	200,722 tons SO_2	Average of 2008, 2009 and 2010
2011	200,722 tons SO_2	Average of 2009, 2010 and 2011
2012	200,722 tons SO_2	Average of 2010, 2011 and 2012
2013	185,795 tons SO_2	Average of 2011, 2012 and 2013
2014	170,868 tons SO_2	Average of 2012, 2013 and 2014
2015	155,940 tons SO_2	Average of 2013, 2014 and 2015
2016	155,940 tons SO_2	Average of 2014, 2015 and 2016
2017	155,940 tons SO_2	Average of 2015, 2016 and 2017
2018	141,849 tons SO_2	Year 2018 only
2019 forward, until replaced by an approved SIP	141,849 tons SO_2	Annual; no multiyear averaging

SO_2 emissions from sources in 1990 totaled 358,364 tpy and the 2018 milestone is 141,849 tpy.[12] The difference is a 60 percent reduction in SO_2 emissions from 1990 to 2018. Pursuant to 40 CFR 51.309(d)(4)(i), the State has concluded that the emission reductions are on target to achieve the GCVTC goal of a 50 to 70 percent reduction of SO_2 emissions by 2040.

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.309(d)4)(i).

2. Documentation of Emissions Calculation Methods for Sulfur Dioxide

Pursuant to 40 CFR 51.309(d)(4)(ii), the SIP includes documentation of the specific

[12] See *Demonstration that the SO_2 Milestones Provide Greater Reasonable Progress than BART* in section D of the State's TSD.

methodology used to calculate SO_2 emissions during the 2006 base year for each emitting unit included in the program. A detailed spreadsheet report that provides the baseline numbers and methodology used to calculate emissions for sources covered by the program is included in section E of the State's TSD.

Pursuant to 40 CFR 51.309(d)(4)(ii), the SIP requires the State to document any change to the specific methodology used to calculate emissions at any emitting unit for any year after the base year. Until the program has been triggered and source compliance is required, the State will submit an annual emissions report to EPA that documents prior year emissions for Utah sources covered by the 309 program to all participating states by September 30 of each year. The State will adjust actual emission inventories for sources that change the method of monitoring or calculating their emissions to be comparable to the emission monitoring or calculation method used to calculate the 2006 base year inventory (see section E.1.c of the SIP).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.309(d)(4)(ii).

3. Monitoring, Recordkeeping, and Reporting of Sulfur Dioxide Emissions

In order to meet the emission reporting requirements of 40 CFR 51.309(d)(4)(iii), the SIP includes provisions requiring the reporting of actual stationary source SO_2 emissions within the State to determine if the milestone has been exceeded. The State revised and submitted as part of their regional haze SIP changes to UAR R307-150, *Emission Inventories*, to meet this requirement. The SO_2 inventory requirements of R307-150 require all stationary sources with actual emissions of 100 tons per year or more of SO_2 in the year 2000, or in any subsequent year, to submit an annual inventory of SO_2 emissions, beginning with the 2003 emission inventory. A source that meets these criteria and then emits less than 100 tons per year in a later year must

continue to submit an SO_2 inventory for tracking compliance with the regional SO_2 milestones until 2018 or until the trading program has been fully implemented and emission tracking is occurring under UAR R307-250-9.

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.309(d)(4)(iii).

4. Criteria and Procedures for a Market Trading Program

Until the backstop trading program has been triggered and source compliance is required, the State shall submit an annual emissions report for Utah sources to all participating states by September 30 of each year. The report shall document actual SO_2 emissions during the previous calendar year for all sources subject to the section 309 program. The WRAP will compile reports from all participating states into a draft regional emission report for SO_2 by December 31 of each year. This report will include actual regional SO_2 emissions, adjustments to account for changes in monitoring/calculation methods or enforcement/settlement agreements, and adjusted average emissions for the last three years for comparison to the regional milestone. As required by 40 CFR 51.309(d)(4)(iv), based on this compilation of reports from all states participating in the 309 program, states will determine if the milestone has been exceeded and will include a determination in a final regional emissions report that is submitted to EPA. This final report and determination will be submitted to EPA by the end of March, 15 months following the milestone year (see section E.1.c of the SIP).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.309(d)(4)(iv).

5. Market Trading Program

Per 40 CFR 51.309(d)(4)(v), the SIP provides that if the 309 backstop trading program is

triggered, the regional emissions report will contain a common trigger date. In the absence of a common trigger date, the default date will be March 31st of the applicable year, but no later than 15 months after the end of the milestone year where the milestone was exceeded (see section E.1.c of the SIP). The State's SIP requires that sources comply, as soon as practicable, with the requirement to hold allowances covering their emissions. Because the backstop trading program does not allow allocations to exceed the milestone, the program is sufficient to achieve the milestones adopted pursuant to 40 CFR 51.309(d)(4)(i) as discussed above. The backstop trading program is also consistent with the elements for such programs outlined in 40 CFR 51.308(e)(2)(vi). The analysis found in Section V.E. of this notice shows that the backstop trading program is consistent with the elements for trading programs outlined in 40 CFR 51.308(e)(2)(vi).

Pursuant to 40 CFR 51.309(d)(4)(v), the State has provided the requirements for the backstop trading program in the event that a milestone is not achieved. The State adopted and submitted as part of its regional haze SIP UAR R307-250 - *Western Backstop Sulfur Dioxide Trading Program.* R307-250 contains the backstop trading program requirements applicable to sources covered by the program. R307-250, in conjunction with section E of the SIP, implements the backstop trading program provisions (the requirements and provisions for the backstop trading program are discussed in this section and section E below).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 309(d)(4)(v).

6. Provisions for the 2018 Milestone

Pursuant to 40 CFR 51.309(d)(vi)(A), the SIP has provisions to ensure that, until a revised implementation plan is submitted in accordance with 40 CFR 51.308(f) and approved by

EPA, emissions from covered stationary sources in any year beginning in 2018 do not exceed the 2018 milestone. In order to meet this requirement, the State has included special provisions for what will be required as part of their 2013 SIP revision required under 40 CFR 51.309(d)(10). The State's SIP provides that the 2013 SIP revision required by 40 CFR 51.309(d)(10) will contain either the provisions of a program designed to achieve reasonable progress for stationary sources of SO_2 beyond 2018 or a commitment to submit a SIP revision containing the provisions of such a program no later than December 31, 2016 (see section E.4 of the SIP).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.309(d)(4)(vi)(A).

7. Special Penalty Provision for 2018

Pursuant to 40 CFR 51.309(d)(vi)(B), the SIP includes special penalty provisions to ensure that the 2018 milestone is met. If the backstop trading is triggered and it will not start until after the year 2018, a special penalty shall be assessed to sources that exceed the 2018 milestone. Utah shall seek at least the minimum financial penalty of $5,000 per ton of SO_2 emissions in excess of a source's allowance limitation. Any source may resolve its excess emissions violation by agreeing to a streamlined settlement approach where the source pays a penalty of $5,000 per ton or partial ton of excess emissions and the source makes the payment within 90 calendar days after the issuance of a notice of violation.

Any source that does not resolve its excess emissions violation in accordance with the streamlined settlement approach will be subject to civil enforcement action, in which the State shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties. The special penalty provisions for 2018 will apply for each year after 2018 until the State determines that the 2018 milestone has been met. The State will evaluate the amount of

the minimum monetary penalty during each five-year SIP review and the penalty will be adjusted to ensure that penalties per ton substantially exceed the expected cost of allowances, and are thus stringent penalties (see R307-250-13 and section E.1.e of the SIP).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.309(d)(4)(vi)(B).

D. "Better-Than-BART" Demonstration

As discussed in Section IV.A of this preamble, if a state adopts an alternative program designed to replace source-specific BART controls, the state must be able to demonstrate that the alternative program achieves greater reasonable progress than would be achieved by BART. Utah has included a demonstration of how the 309 program achieves greater reasonable progress than BART as discussed in the document titled *Demonstration that the SO_2 Milestones Provide for Greater Reasonable Progress than BART* ("better-than-BART" demonstration). Section V.D.5 below contains a discussion on how the 309 backstop trading program achieves greater reasonable progress than BART. New Mexico and Wyoming have also submitted SIPs with the same better-than-BART demonstration as Utah, and thus are relying on a consistent demonstration across the states.

1. List of BART-Eligible Sources

Pursuant to 40 CFR 51.308(e)(2)(i)(A), the State's better-than-BART demonstration lists the BART-eligible sources covered by the program (see Table 3 below). BART eligible sources are identified as those sources that fall within one of the 26 specific source categories, were built between 1962 and 1977 and have potential emissions of 250 tons per year of any visibility impairing air pollutant. The State identified the following BART-eligible sources in Utah: PacifiCorp Hunter Units 1 and 2 and PacifiCorp Huntington Units 1 and 2.

We are proposing that this satisfies the requirements of 40 CFR 51.308(e)(2)(i)(A).

2. Subject-to-BART Determination

Pursuant to 40 CFR 51.308(e)(2)(i)(B), the State has determined which sources are subject-to-BART. Each of the section 309 states provided source modeling that determined which of the BART-eligible sources within their states cause or contribute to visibility impairment and are thus subject-to-BART (more information on subject-to-BART sources and modeling can be found in section V.F of this notice). The State of New Mexico and Utah relied on modeling by the WRAP to identify sources subject-to-BART. The procedures used are outlined in the WRAP Regional Modeling Center (RMC) BART Modeling Protocol.[13] The State of Wyoming performed separate modeling to identify sources subject-to-BART.[14]

The states established a contribution threshold of 0.5 deciviews for determining if a single source causes or contributes to visibility impairment (see section V.F.1.b of this notice for further discussion on the contribution threshold). If the modeling shows that a source has a 0.5 deciview impact at any Class I area, that source causes or contributes to visibility impairment and is subject-to-BART. Table 3 shows the BART-eligible sources covered by the 309 backstop program and whether they are subject-to-BART.

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(i)(B).

Table 3 - Subject-to-BART Status for Section 309 BART-Eligible Sources

[13] *CALMET/CALPUFF Protocol for BART Exemption Screening Analysis for Class I Areas in the Western United States*, Western Regional Air Partnership (WRAP); Gail Tonnesen, Zion Wang; Ralph Morris, Abby Hoats and Yiqin Jia, August 15, 2006. Available at: http://pah.cert.ucr.edu/aqm/308/bart/WRAP_RMC_BART_Protocol_Aug15_2006.pdf

[14] *BART Air Modeling Protocol, Individual Source Visibility Assessments for BART Control Analyses*, State of Wyoming, Department of Environmental Quality, Air Quality Division, Cheyenne, WY September 2006.

State	Company	Facility	Subject-to-BART?
New Mexico	Frontier	Empire Abo	No
New Mexico	Xcel Energy	SWPS Cunningham Station	No
New Mexico	Duke Energy	Artesia Gas Plant	No
New Mexico	Duke Energy	Linam Ranch Gas Plant	No
New Mexico	Dynegy	Saunders	No
New Mexico	Giant Refining	San Juan Refinery	No
New Mexico	Giant Refining,	Ciniza Refinery	No
New Mexico	Xcel Energy	SWPS Maddox Station	No
New Mexico	Marathon	Indian Basin Gas Plant	No
New Mexico	Public Service of New Mexico	San Juan Generating Station	Yes
New Mexico		Rio Grande Station	No
New Mexico	Western Gas Resources	San Juan River Gas Plant	No
Utah	Pacificorp	Hunter	Yes
Utah	Pacificorp	Huntington	Yes
Wyoming	Basin Electric	Laramie River	Yes
Wyoming	Black Hills Power & Light	Neil Simpson I	No
Wyoming	Dyno Nobel	Dyno Nobel	No
Wyoming	FMC Corp.	Green River Soda Ash Plant	Yes
Wyoming	FMC Corp.	Granger River Soda Ash Plant	No
Wyoming	General Chemical	Green River Soda Ash Plant	Yes
Wyoming	P4 Production	Rock Springs Coking Plant	No
Wyoming	Pacificorp	Dave Johnston	Yes
Wyoming	Pacificorp	Jim Bridger	Yes
Wyoming	Pacificorp	Naughton	Yes
Wyoming	Pacificorp	Wyodak	Yes
Wyoming	Sinclair Oil Corp	Sinclair Refinery	No
Wyoming	Sinclair Refinery	Casper	No

3. Best System of Continuous Emission Control Technology

As required by 40 CFR 51.308(e)(2)(i)(C), the State determined what BART would be for each subject-to-BART source covered by the 309 backstop trading program. In the State's better-than-BART demonstration, all subject-to-BART EGUs were assumed to be operating at the presumptive SO_2 emission rate of 0.15 lb/MMBtu established in the BART Guidelines (70 FR 39171). The 309 program also includes non-EGU subject-to-BART units. As explained in the better-than-BART demonstration, the non-EGU subject-to-BART units are four boilers located at two trona plants in Wyoming: FMC Westvaco and General Chemical Green River. Wyoming made a determination of what BART would be for these non-EGU units. FMC Westvaco recently installed pollution control projects achieving a 63% reduction in SO_2 from its two boilers. Wyoming determined this control level would serve as a BART benchmark for all trona boilers. Thus, a 63% reduction in emissions from these sources was included in the BART benchmark in calculating emission reductions assuming the application of BART at these sources. Emission reductions or the BART benchmark for all subject-to-BART sources covered by the 309 program was calculated to be 48,807 tons of SO_2 (all supporting calculations for the "better-than-BART" demonstration are located in section D of the State's TSD under the title *10-6-10_milestone.xls*).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(i)(C).

4. Projected Emissions Reductions

As required by 40 CFR 51.308(e)(2)(i)(D), the State has provided the expected emission reductions that would result from the 309 backstop trading program. The better-than-BART demonstration projects that 2018 baseline emissions would be 190,656 tpy of SO_2 for the sources

covered by the 309 program in the participating states. The reductions achieved by the program are 48,807 tpy of SO_2, resulting in remaining emissions of 141,849 tpy of SO_2 in 2018.

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(i)(D).

5. Evidence that the Trading Program Achieves Greater Reasonable Progress than BART

The State's better- than-BART demonstration provides numerous reasons why the SO_2 backstop trading program is better than BART. First, additional sources beyond BART sources are included. The backstop trading program includes all stationary sources with emissions greater than 100 tpy of SO_2, and thus, encompasses 63 non-subject-to-BART sources, which are identified in the better-than-BART demonstration. BART applied on a source-specific basis would not affect these sources, and there would be no limitation on their future operations under their existing permit conditions, or allowable emissions. The milestones will cap these sources at 2002 actual emissions, which are less than current allowable emissions.

The program also provides for a cap on new source growth. Future impairment is prevented by capping emissions growth from sources covered by the program, and also by including entirely new sources in the region under the cap. BART applied on a source-specific basis would have no impact on future growth. The backstop trading program also provides a mass-based cap that has inherent advantages over applying BART to each individual source. The baseline emission projections and assumed reductions due to the assumption of BART-level emission rates on all sources subject-to-BART are all based on actual emissions, using 2006 as the baseline. If the BART process were applied on a source-specific basis to individual sources,

emission limitations would typically be established as an emission rate (lbs/hr or lbs/MMBtu) that would account for variations in the sulfur content of fuel and alternative operating scenarios, or allowable emissions. A mass-based cap that is based on actual emissions is more stringent because it does not allow a source to consistently use this difference between current actual and allowable emissions.

We are proposing to determine the State's 309 backstop trading program achieves greater reasonable progress than would be achieved through the installation and operation of BART and thus meets the requirements of 40 CFR 51.308(e)(2)(i)(E).

6. All Emission Reductions Must Take Place During the First Planning Period

The first planning period ends in 2018. As discussed above, the reductions from the 309 program will occur by 2018. We are therefore proposing to determine the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(iii).

7. Detailed Description of the Alternative Program

The detailed description of the backstop trading program is provided in Section E – *Sulfur Dioxide Milestones and Backstop Trading Program* of the State's SIP and R307-250, which we are proposing to approve. We are proposing to determine that the State's SIP meets the detailed description requirement in 40 CFR 51.308(e)(2)(iii).

8. Surplus Reductions

We propose to approve the determination in the State's 309 SIP submittal that all emission reductions resulting from the emissions trading program are surplus as of the baseline date of the SIP, as required by 40 CFR 51.308(e)(2)(iv).

9. Geographic Distribution of Emissions

Pursuant to 40 CFR 51.308(e)(3), the State used modeling conducted by the WRAP to compare the visibility improvement expected from source-by source BART to the backstop trading program for the Class I areas on the Colorado Plateau. A summary of the modeling results can be found in Section K of the State's SIP, which refers to data from modeling included in Tables 2 and 3 of Attachment C to the Annex.[15, 16] This modeling was conducted during the development of the Annex to examine if the geographic distribution of emissions under the trading program would be substantially different and disproportionately impact any Class I area due to a geographic concentration of emissions. The modeled visibility improvement for the best and worst days at the Class I areas for the 309 program is similar to improvement anticipated from the BART scenario (within 0.1 deciview) on the worst and best visibility days. Thus, if we assume participation and milestones consistent with the model, the model demonstrates that the distribution of emissions between the BART scenario and the 309 trading program are not substantially different. We note this modeling demonstration included nine states, many of which are not participating in the backstop trading program. This modeling demonstration adds support to our proposed determination discussed above in this section that the regional haze 309 SIP submittal appropriately shows the trading program will achieve greater reasonable progress than would be achieved through the installation and operation of BART, as required by 40 CFR 51.308(e)(2)(i)(E).

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[15] *Voluntary Emissions Reduction Program for Major Industrial Sources of Sulfur Dioxide in Nine Western States and A Backstop Market Trading Program*, an Annex to the Report of the Grand Canyon Visibility Transport Commission (September 2000) at C-15 and 16.

[16] WRAP conducted modeling of the degree of visibility improvement that would occur on average and for the 20% best and worst visibility days. The WRAP used the transfer coefficients developed as part of the Integrated Assessment System and used by the GCVTC. As noted in the Annex , this modeling has limitations which must be considered when interpreting the results.

E. Requirements for Alternative Programs with an Emissions Cap

The following analysis shows that the State's SIP is consistent with the elements for trading programs required by 40 CFR 51.308(e)(2)(vi). The backstop trading program contains milestones, which are in effect a cap. Under a backstop trading program, the provisions of a trading program are enacted only if the milestone has been exceeded. Since the 309 trading program is a backstop trading program, the provisions outlined below will only apply if the milestone is exceeded and the program is triggered.

1. Applicability Provisions

Pursuant to 40 CFR 51.308(e)(2)(vi)(A), the backstop trading program has the same applicability requirements in all states opting to participate in the program. R307-250-3 contains the applicability provisions and provides that the backstop trading program applies to all stationary sources that emit 100 tons per year or more of SO_2 in the program trigger year.

We are proposing to approve that the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(A).

2. Allowance Provisions

Section E.3.a of the SIP and R307-250-8 contain the allowance allocation provisions as required by 40 CFR 51.308(e)(2)(vi)(B). R307-250-8 requires sources to open a compliance account in order to track allowances and contains other requirements associated with those accounts. The SIP contains the provisions on how the State will allocate allowances and requires that the total number of allowances distributed cannot exceed the milestone for any given year.

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(B).

3. Monitoring, Recordkeeping and Reporting Provisions

Pursuant to 40 CFR 51.308(e)(2)(vi)(C) - (E), R307-250-9 provides that sources subject to 40 CFR part 75 under a separate requirement from the backstop trading program shall meet the requirements contained in 40 CFR part 75 with respect to MRR of SO_2 emissions. If a unit is not subject to 40 CFR part 75 under a requirement separate from the trading program, the State requires that a source use one of the following monitoring methods: 1) continuous emission monitoring system for SO_2 and flow that complies with all applicable monitoring provisions in 40 CFR part 75; 2) if the unit is a gas- or oil-fired combustion device, the monitoring methodology in Appendix D to 40 CFR part 75, or, if applicable, the low mass emissions provisions (with respect to SO_2 mass emissions only) of section 75.19(c) of 40 CFR part 75; 3) one of the optional protocols, if applicable, in Appendix B to the SIP;[17] or 4) a petition for site-specific monitoring that the source submits for approval by the State and EPA. All the above sources are required to comply with the reporting and recordkeeping requirements in 40 CFR part 75.

Although most sources covered by the backstop trading program will be able to meet the monitoring requirements stated above, there are some emission units that are either not physically able to install the needed equipment or do not emit enough SO_2 to justify the expense of installing these systems. As discussed in the SIP, the trading program allows these emission units to continue to use their pre-trigger monitoring methodology, but does not allow the source to transfer any allocation associated with that unit to another source. The program requires that

[17] Appendix B of the SIP contains monitoring requirements for fuel gas combustion devices at petroleum refineries and kilns with positive pressure fabric filters. Appendix B specifies the installation of a continuous fuel gas monitoring system and predictive flow monitoring system, respectively. Appendix B also specifies requirements under 40 CFR part 75 sources must follow in regards to this equipment.

the allowances associated with emission units that continue to use their pre-trigger monitoring methodology be placed in a special reserve compliance account, while allowances for other emission units are placed in a regular compliance account. Sources may not trade allowances out of a special reserve compliance account, even for use by emission units at the same source, but can use the allowances to show compliance for that particular unit (see section E.3.i of the SIP).

R307-250-9(1)(b) allows sources with any of the following emission units to apply for the establishment of a special reserve compliance account: 1) any smelting operation where all of the emissions from the operation are not ducted to a stack; 2) any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery; or 3) any other type of unit without add-on SO_2 control equipment, if the unit belongs to one of the following source categories: cement kilns, pulp and paper recovery furnaces, lime kilns, or glass manufacturing. Pursuant to 40 CFR 51.308(e)(2)(vi)(E), sources with a special reserve compliance account are required to submit to the State an annual emissions statement and sources are required to maintain operating records sufficient to estimate annual emissions consistent with the baseline emission inventory submitted in 1998.

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(C) - (E).

4. Tracking System

As required by 40 CFR 51.308(e)(2)(vi)(F), section E.2.f of the SIP provides the overarching specifications for an Emissions and Allowance Tracking System (EATS). According to the SIP, the EATS must provide that all necessary information regarding emissions, allowances, and transactions is publicly available in a secure, centralized database.

The EATS must ensure that each allowance is uniquely identified, allow for frequent updates, and include enforceable procedures for recording data. If the program is triggered, the State will work with other states and tribes participating in the trading program to implement this system. More detailed specifications for the EATS are provided in the *WEB Emission and Allowance Tracking System (EATS) Analysis* in section E of the State's TSD. The State assumes responsibility for ensuring that all the EATS provisions are completed as described in its SIP and TSD.

In addition, the State will work with the other participating states to designate one tracking system administrator (TSA). The SIP provides that the TSA shall be designated as expeditiously as possible, but no later than six months after the program trigger date. The State will enter into a binding contract with the TSA that shall require the TSA to perform all TSA functions described in the SIP, such as transferring and recording allowances (see section E.1.b(2) of the SIP).

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(iv)(F).

5. Account Representative

Pursuant to 40 CFR 51.308(e)(2)(vi)(G), R307-250-5 contains provisions for the establishment of an account representative. The rule requires each source to identify one account representative. The account representative shall submit to the State and the TSA a signed and dated certificate that contains a certification statement verifying that the account representative has all the necessary authority to carry out the account representative responsibilities under the trading program on behalf of the owners and operators of the sources. The certification

statement also needs to indicate that each such owner and operator shall be fully bound by the account representatives representations, actions, inactions, or submissions and by any decision or order issued to the account representative by the State regarding the trading program.

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(G).

6. Allowance Transfers

Section E.3.g of the State's SIP and R307-250-10 have established procedures pertaining to allowance transfers to meet the requirements of 40 CFR 51.308(e)(2)(vi)(H). R307-250-10 contains requirements sources must follow for allowance transfers. To transfer or retire allowances, the account representative shall submit the transfer account number(s) identifying the transferor account, the serial number of each allowance to be transferred, the transferor's account representative's name and signature, and date of submission. The allowance transfer deadline is midnight Pacific Standard Time on March 1st of each year following the end of the control period. Sources must correctly submit transfers by this time in order for a source to be able to use the allowance to demonstrate compliance.

The SIP provides the procedures the TSA must follow to transfer allowances. The TSA will record an allowance transfer by moving each allowance from the transferor account to the transferee account as specified by the request from the source, if the transfer is correctly submitted, and the transferor account includes each allowance identified in the transfer. Within five business days of the recording of an allowance transfer, the TSA shall notify the account representatives of both the transferor and transferee accounts, and make the transfer information publicly available on the Internet. Within five business days of receipt of an allowance transfer

that fails to meet the requirements for transfer, the TSA will notify the account representatives of both accounts of the decision not to record the transfer, and the reasons for not recording the transfer.

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(H).

7. Compliance Provisions

Pursuant to 40 CFR 51.308(e)(2)(vi)(I), the State has provided the procedures for determining compliance in R307-250-12. Per this section, the source must hold allowances as of the allowance transfer deadline in the source's compliance account (together with any current control year allowances held in the source's special reserve compliance account) in an amount not less than the total SO_2 emissions for the control period from the source. The State determines compliance by comparing allowances held by the source in their compliance account(s) with the total annual SO_2 emissions reported by the source. If the comparison of the allowances to emissions results in emissions exceeding allowances, the source's excess emissions are subject to the allowance deduction penalty discussed in further detail below.

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(I).

8. Penalty Provisions

R307-250-12(3) provides the penalty provisions required by 40 CFR 51.308(e)(2)(vi)(J). Per this section, a source's allowances will be reduced by an amount equal to three times the source's tons of excess emissions if they are unable to show compliance. Allowances allocated

for the following control period will be the original allowance minus the allowance penalty. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances will be deducted from the source's compliance account regardless of the control period for which they were allocated.

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.308(e)(2)(vi)(J).

9. Banking of Allowances

As allowed by 40 CFR 51.308(e)(2)(vi)(K), R307-250-11 allows sources to use allowances from current and prior years to demonstrate compliance, with some restrictions. Sources can only use 2018 allowances to show compliance with the 2018 milestone and may not use allowances from prior years. In order to ensure that the use of banked allowances does not interfere with the attainment or maintenance of reasonable progress goals, the backstop trading program includes flow-control provisions. The flow control provisions are triggered if the TSA determines that the banked allowances exceed ten percent of the milestone for the next control year, and thereby ensure that too many banked emissions are not used in any one year (see section E.3.h(2) of the SIP).

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.309(e)(2)(vi)(J).

10. Program Assessment

Pursuant to 40 CFR 51.308(e)(2)(vi)(L), the SIP contains provisions for a 2013 assessment and SIP revision. For the 2013 assessment, the State will work with other

participating states to develop a projected emission inventory for SO_2 through the year 2018. The State will then evaluate the projected inventory and assess the likelihood of meeting the regional milestone for the year 2018. The State shall include this assessment as part of the 2013 progress report that must be submitted under 40 CFR 51.309(d)(10) (see section E.1.d of the SIP).

We are proposing to determine the State's SIP meets the requirements of 40 CFR 308(e)(2)(vi)(L).

F. Provisions for Stationary Source Emissions of Nitrogen Oxides and Particulate Matter

Pursuant to 40 CFR 51.309(d)(4)(vii), states must evaluate certain stationary sources for NO_x and PM BART. BART for SO_2 is addressed by the backstop trading program described above. BART requirements can be addressed through a case-by-case review under 40 CFR 51.308(e)(1) or through an alternative program under 40 CFR 51.308(e)(2). The State chose to evaluate BART for NO_x and PM under the case-by-case provisions of 40 CFR 51.308(e)(1). We are proposing to disapprove the State's BART determinations because we find that the State's determinations do not meet the requirements of 40 CFR 51.308(e)(1), section 110(a)(2) of the CAA, and Appendix V of part 51, as described below.

1. BART-Eligible Sources

The first step of a BART evaluation is to identify all the BART-eligible sources within the state's boundaries. Utah identified the BART-eligible sources in Utah by utilizing the approach set out in the BART Guidelines (70 FR 39158). This approach provides the following three criteria for identifying BART-eligible sources: 1) one or more emission units at the facility

fit within one of the 26 categories listed in the BART Guidelines; 2) the emission unit(s) began operation on or after August 6, 1962, and was in existence on August 6, 1977; and 3) potential emissions of any visibility-impairing pollutant from subject units are 250 tons or more per year. Utah used its permits and 2001-2003 emission inventory records to identify facilities in the BART source categories with potential emissions of 250 tons per year or more for any visibility-impairing pollutant from any unit that was in existence on August 7, 1977 and began operation on or after August 7, 1962. Utah determined that PacifiCorp Hunter Unit 1 and Unit 2 and PacifiCorp Huntington Unit 1 and Unit 2 are BART-eligible.

2. Sources Subject-to-BART

The second step of the BART evaluation is to identify those BART-eligible sources that may reasonably be anticipated to cause or contribute to any visibility impairment at any Class I area, i.e. those sources that are subject-to-BART. The BART Guidelines allow states to consider exempting some BART-eligible sources from further BART review because they may not reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area. Consistent with the BART Guidelines, Utah used dispersion modeling performed by the WRAP RMC on the BART-eligible sources to assess the extent of their contribution to visibility impairment at surrounding Class I areas.

a. Modeling Methodology

The BART Guidelines provide that states may use the CALPUFF[18] modeling system or

[18] Note that our reference to CALPUFF encompasses the entire CALPUFF modeling system, which includes the CALMET, CALPUFF, and CALPOST models and other pre and post processors. The different versions of CALPUFF have corresponding versions of CALMET, CALPOST, etc. which may not be compatible with previous versions (e.g., the output from a newer version of CALMET may not be compatible with an older version of CALPUFF). The different versions of the CALPUFF modeling system are available from the model developer at http://www.src.com/verio/download/download.htm.

another appropriate model to predict the visibility impacts from a single source on a Class I area and to, therefore, determine whether an individual source is anticipated to cause or contribute to impairment of visibility in Class I areas, i.e., "is subject-to-BART." The Guidelines state that we find CALPUFF is the best regulatory modeling application currently available for predicting a single source's contribution to visibility impairment (70 FR 39162).

To determine if each BART-eligible source has a significant impact on visibility, Utah used the RMC CALPUFF modeling results to estimate daily visibility impacts above estimated natural conditions at each Class I area within 300 km of any BART-eligible facility, based on maximum actual 24-hour emissions over a three year period (2001-2003) (see section D.6.c of the SIP). The RMC used the CALPUFF model for Utah BART sources in accordance with a modeling protocol it developed. The RMC protocol follows recommendations for long-range transport described in appendix W to 40 CFR part 51, *Guideline on Air Quality Models*, and in EPA's *Interagency Workgroup on Air Quality Modeling (IWAQM) Phase 2 Summary Report and Recommendations for Modeling Long Range Transport Impacts* as recommended by the BART Guidelines. (40 CFR part 51, appendix Y, section III.A.3).

b. Contribution Threshold

For states using modeling to determine the applicability of BART to single sources, the BART Guidelines note that the first step is to set a contribution threshold to assess whether the impact of a single source is sufficient to cause or contribute to visibility impairment at a Class I area. The BART Guidelines state that, "[a] single source that is responsible for a 1.0 deciview change or more should be considered to 'cause' visibility impairment." (70 FR 39104, 39161). The BART Guidelines also state that "the appropriate threshold for determining whether a source contributes to visibility impairment may reasonably differ across states," but, "[a]s a general

matter, any threshold that you use for determining whether a source "contributes" to visibility impairment should not be higher than 0.5 deciviews." *Id.* Further, in setting a contribution threshold, states should "consider the number of emissions sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts." The Guidelines affirm that states are free to use a lower threshold if they conclude that the location of a large number of BART-eligible sources in proximity to a Class I area justifies this approach.

Utah used a contribution threshold of 0.5 deciviews for determining which sources are subject-to-BART (see section D.6.3 of the SIP). Using a threshold of 0.5 deciviews, the State determined that all its BART-eligible sources were subject-to-BART. We propose to approve the State's threshold of 0.5 deciviews.

The State determined that the following units were BART-eligible and subject-to-BART: PacifiCorp Hunter Unit 1 and Hunter Unit 2 and PacifiCorp Huntington Unit1 and Huntington Unit 2 (see section D.6.3 of the SIP). All four units are tangentially fired fossil fuel fired EGUs each with a net generating capacity of 430 MW, permitted to burn bituminous coal.

We are proposing that the State has correctly determined of the BART eligible and subject-to-BART units in the State.

3. BART Determinations and Limits

The third step of a BART evaluation is to perform the BART analysis. BART is a source-specific control determination, based on consideration of several factors set out in section 169A(g)(2) of the CAA. These factors include the costs of compliance and the degree of improvement in visibility associated with the use of possible control technologies. EPA issued BART Guidelines (Appendix Y to Part 51) in 2005 to clarify the BART provisions based on the

statutory and regulatory BART requirements (70 FR 39164). The BART Guidelines describe the BART analysis as consisting of the following five basic steps:

- Step 1: Identify All Available Retrofit Control Technologies;
- Step 2: Eliminate Technically Infeasible Options;
- Step 3: Evaluate Control Effectiveness of Remaining Control Technologies;
- Step 4: Evaluate Impacts and Document the Results; and
- Step 5: Evaluate Visibility Impacts.

In determining BART, the State must consider the five statutory factors in section 169A of the CAA: (1) the costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. *See also* 40 CFR 51.308(e)(1)(ii)(A). The five-factor analysis occurs during steps 4 and 5 of the BART analysis. We note the BART Guidelines (Appendix Y to part 51) provide that states must follow the guidelines in making BART determinations on a source-by-source basis for 750 MW power plants but are not required to use the process in the guidelines when making BART determinations for other types of sources. States with subject-to-BART units with a generating capacity less than 750 MW are strongly encouraged to follow the BART Guidelines in making BART determinations, but they are not required to do so. However, the requirement to perform a BART analysis that considers "the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility

which may reasonably be anticipated to result from the use of such technology," is found in section 51.308(e)(1)(ii)(A) of the RHR, and applies to all subject-to-BART sources.

We have found issues, as discussed below, with the State's BART determinations that lead us to propose disapproval. For all of the subject-to-BART units, the State did not properly determine BART, but instead concluded that a slightly lower limit than the presumptive limits in the BART Guidelines could be adopted in place of a detailed source-specific analysis of the appropriate level of controls. As noted above, EPA issued BART Guidelines in 2005 that address the BART determination process by laying out a step by step process for taking into consideration the factors relevant to a BART determination.

EPA's 2005 rulemaking also established presumptive BART limits for certain EGUs located at power plants 750 MW or greater in size based on the size of the unit, the type of unit, the type of fuel used, and the presence or absence of controls (70 FR 39131 – 39136). Having identified controls that the Agency considered to be generally cost-effective across all affected units, EPA took into account the substantial degree of visibility improvement anticipated to result from the use of such controls on these EGUs and concluded that such BART-eligible sources should at least meet the presumptive limits. The presumptive limits accordingly are the starting point in a BART determination for these units, unless the state determines that the general assumptions underlying EPA's analysis are not applicable in a particular case. EPA did not provide that states could avoid a source-specific BART determination by adopting the presumptive limits. In fact, nothing in the State's record would support the conclusion that the presumptive limits represent the "best available retrofit controls" for all EGUs at these large power plants. EPA did not address the question of whether in specific cases more stringent controls would be called for, but rather simply concluded that it could not reach a generalized

conclusion as to the appropriateness of more stringent controls for categories of EGUs. As a result, the BART Rule does not establish a "safe harbor" from more stringent regulation under the BART provisions.

Regarding BART for PM and NO_X, neither PacifiCorp nor the State performed a BART analysis taking into account the statutory factors that states are required to consider in determining what retrofit controls are BART for PacifiCorp Hunter Unit 1 and Unit 2 and PacifiCorp Huntington Unit 1 and Unit 2 (information on the State's BART determination as summarized in this paragraph can be found in section D.6.d of the SIP). The State determined that it could rely on the presumptive limits to determine what NO_x BART is for the subject-to-BART sources. PacifiCorp proposed and the State determined, without any analysis, that the NO_x BART limit for all the subject-to-BART units was 0.26 lb/MMBtu (30-day rolling average), which is the current operating permit limit for the source and which the State assumes can be achieved by the installation and operation of low NO_x burners (LNBs) and separated overfire air (SOFA). The State reasoned that since this limit is slightly lower than the presumptive limit, which is 0.28 lb/MMBtu (30-day rolling average), it constituted NO_x BART for these sources. There are no presumptive limits established for PM. PacifiCorp proposed and the State agreed, without any analysis, that the PM BART limits for all subject-to-BART units was the current operating permit limit of 0.05 lb/MMBtu (30-day rolling average), which the State assumes can be achieved by the installation and operation of fabric filter baghouses.[19]

Because PacifiCorp units have a 430 MW generating capacity, the State is not required to follow the BART Guidelines in making BART determinations for the units. However, neither

[19] These are new emission limits, and in accordance with the SIP, PacifiCorp is required to install and operate BART no later than five years after EPA approval of the plan.

the State nor PacifiCorp have completed a BART analysis that considers the statutory factors under 40 CFR 51.308(e)(1)(ii)(A), which provides that: "The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source that is subject-to-BART within the State. In this analysis, the State must take into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology."

Furthermore, the State's regional haze SIP does not contain the elements necessary to make the proposed emission limits practically enforceable. Utah's SIP section D.6.d contains controls, emission limits and general compliance schedules, but does not include SIP provisions specifying averaging times, record-keeping, monitoring, and specific schedules for compliance. The CAA requires that SIPs, including the regional haze SIP, contain elements sufficient to ensure emission limits are practically enforceable.[20] Other applicable regulatory provisions are contained in Appendix V to part 51 - Criteria for Determining the Completeness of Plan

[20] CAA Section 110(a)(2) states that SIPs "shall (A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter; (C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter; (F) require, as may be prescribed by the Administrator – (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection"

Submissions.[21] Utah suggests that including averaging times, recordkeeping, monitoring, and specific schedules for compliance in the source's operating permits[22], and not as part of the SIP, is sufficient to meet the statutory and regulatory requirements discussed above.[23] It is not sufficient to include these elements in a permit or agreement that is not made part of the SIP. EPA does not consider operating permit conditions adequate to meet this enforceability requirement, as permit conditions may be modified without going through the SIP approval process.

During the State's development of its regional haze SIP, we consistently informed in comment letters and in conversations that foregoing a BART analysis is not acceptable and that the SIP must contain the necessary elements to ensure emission limits, including BART emission limits, are practicably enforceable. EPA sent letters to the State in 2008 and 2011 outlining our concerns with the State's proposed SIP as discussed above.[24]

Therefore, we are proposing to find that the State did not properly follow the requirements of 40 CFR 51.308(e)(1)(ii)(A) and section 169A(g)(2) of the CAA in determining PM and NO_x BART for PacifiCorp Hunter Unit 1 and Unit 2 and PacifiCorp Huntington Unit 1 and Unit 2. Specifically, neither the State nor PacifiCorp, conducted a BART analyses for each of the units that took into account the five BART factors. We are also proposing to partially disapprove the State's SIP because it does not contain the elements necessary to make the BART

[21] Appendix V part 51 states in section 2.2 that complete SIPs contain: "(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels"; and "(h) Compliance/enforcement strategies, including how compliance will be determined in practice."
[22] Utah Division of Air Quality Approval Orders: Huntington Unit 2 - AN0238012-05, Huntington Unit 1 - AN0102380019-09; and Hunter Units 1 and 2 - AN0102370012-08.
[23] See response to EPA comments in the State's September 9, 2008 regional haze SIP submittal.
[24] See August 4, 2008 letter from Callie A. Videtich, EPA Region 8, to Cheryl Heying, Utah Air Quality Division and February 4, 2011 letter from Deborah Lebow-Aal, EPA Region 8, to Cheryl Heying, Utah Air Quality Division in the Supporting and Related Materials section of this docket.

limits practically enforceable as required by section 110(a)(2) of the CAA and Appendix V to part 51. For these reasons, we are proposing to disapprove the State's determination that BART for NO_x for PacifiCorp Hunter Unit 1 and Unit 2 and PacifiCorp Huntington Unit 1 and Unit 2 is a NO_x emission limit of 0.26 lb/MMBtu (30-day rolling average) (assumed to be achieved by LNBs plus SOFA). We are also proposing to disapprove the State's determination that BART for PM for PacifiCorp Hunter Unit 1 and Unit 2 and PacifiCorp Huntington Unit 1 and Unit 2 is an emission limit of 0.05 lb/MMBtu (30-day rolling average) (assumed to be achieved by fabric filter baghouses).

G. Mobile Sources

Pursuant to 40 CFR 51.309(d)(5)(i), the State, in collaboration with the WRAP, assembled a comprehensive statewide inventory of mobile source emissions. The inventory included on-road and non-road mobile source emissions inventories for western states for the 2003 base year and emission projections for the year 2018.[25] The inventory shows a continuous decline in emissions from mobile sources from VOC, NO_x, $PM_{2.5}$, EC, and OC emissions over the period of 2003-2018. Between 2003 and 2018, the inventory shows that there will be a 54 percent decrease in NO_x emissions, a 39 percent decrease in OC, a 24 percent decrease in EC, a 38 percent decrease of $PM_{2.5}$, and a 56 percent decrease of VOC. Per 40 CFR 51.309(d)(5)(i)(A), the inventory shows a decline in the required mobile source emissions categories, and therefore, no further action is required by the State to address mobile source emissions (see section F.2.a of the SIP).

[25] Detailed information on the emission inventory is contained in the ENVIRON Report *WRAP Mobile Source Emission Inventories Update*, May 2006. This report is included in the Supporting and Related Materials section of the docket.

Pursuant to 40 CFR 51.309(d)(5)(i)(B), emission inventory projections show that there will be a 99 percent decrease in SO_2 emissions from non-road mobile sources for 2003-2018. The reduction will result from the implementation of EPA's rule titled *Control of Emissions of Air Pollution from Non-road Diesel Engines and Fuel* (see 69 FR 38958). A 99 percent reduction in SO_2 from non-road mobile sources is consistent with the goal of reasonable progress and that no other long-term strategies are necessary to address SO_2 emissions from non-road mobile sources.

We are proposing to determine the State's SIP meets the requirements of 40 CFR 51.309(d)(5).

H. Programs Related to Fire

EPA has proposed approval of the requirements related to fire under 40 CFR 51.309(d)(6) in a separate action (76 FR 69217).

I. Paved and Unpaved Road Dust

WRAP performed an assessment of the impact of dust emissions from paved and unpaved roads on the 16 Class I areas of the Colorado Plateau. The WRAP modeled and calculated the significance of road dust in terms of the impact on visibility on the worst 20 percent days. The modeled regional impact of road dust emissions ranged from 0.31 deciviews at the Black Canyon of the Gunnison National Park to 0.08 deciviews at the Weminuche Wilderness Area. (For more information on the WRAP modeling and assessment of road dust impacts, see Chapter 7 of the WRAP TSD). Based on the WRAP modeling, the State has concluded that road dust is not a significant contributor to visibility impairment in the 16 Class I areas. Since the State has found that road dust is not a significant contributor to visibility

impairment, the State did not include road dust control strategies in the SIP pursuant to 40 CFR 51.309(d)(7) (see section H.2.b of the SIP).

The State will track road dust emissions with the assistance of the WRAP and provide an update on paved and unpaved road dust emission trends, including any modeling or monitoring information regarding the impact of these emissions on visibility in the 16 Colorado Plateau Class I Areas. These updates will include a reevaluation of whether road dust is a significant contributor to visibility impairment. These updates shall be part of the periodic implementation plan revisions pursuant to 40 CFR 51.309(d)(10) (see section H.2.a of the SIP).

We propose to determine the State's SIP meets the requirements of 40 CFR 51.309(d)(7).

J. Pollution Prevention

Under 40 CFR 51.309(d)(8), states must provide information on renewable energy and other pollution prevention efforts in the state. 40 CFR 51.309(d)(8) does not require states to adopt any new measures or regulations. Thus, we find the information Utah provided adequate to meet the requirements of 40 CFR 51.309(d)(8) as discussed below (see section I of the SIP).

1. Description of Existing Pollution Prevention Programs

Pursuant to 40 CFR 51.309(d)(8)(i), section I of the State's TSD summarizes all pollution prevention and renewable energy programs currently in place in Utah. The State's SIP provides an estimate of renewable energy generating capacity in megawatts for each of the renewable energy categories (see Table 12 of the SIP). Total installed generation capacity within Utah in 2002 was 5,485 MW. Renewable energy generation capacity represented 0.77 percent of the total installed capacity.

2. Incentive Programs

Per 40 CFR 51.309(d)(8)(ii), the State has provided incentives for early compliance by participating in the 309 regional SO_2 backstop trading program. The backstop trading program allows for early reduction credits. Sources of SO_2 subject to the trading program that reduce emissions prior to the program trigger date shall receive additional emission allowances. The source may use such allowances for compliance purposes or may sell them to other parties.

3. Programs to Preserve and Expand Energy Conservation Efforts

Per 40 CFR 51.309(d)(8)(iii), the State provided a table that discusses the programs within the State that preserve and expand energy conservation efforts (see Table 17 in the SIP). Such programs include the *Residential Energy Efficiency Program* and *Salt Lake City Climate Action Plan Program*.

4. Potential for Renewable Energy

Pursuant to 40 CFR 51.309(d)(8)(iv), the renewable energy resource potential in Utah and its geographic distribution across the State have been characterized succinctly in the *Renewable Energy Atlas of the West*.[26] The *Renewable Energy Atlas of the West* was assembled using best available renewable energy resource maps and data. The State used the *Renewable Energy Atlas of the West* to determine the potential for renewable energy across the State. The State has summarized the potential for renewable energy development in section I.10.B of the SIP.

[26] Land and Water Fund of the Rockies, Northwest Sustainable Energy for Economic Development, and Green Info Network with support from the Hewlett Foundation and the Energy Foundation. *Renewable Energy Atlas of the West: A Guide to the Region's Resource Potential*. Available in section I of the State's TSD.

5. Projections of Renewable Energy Goals, Energy Efficiency, and Pollution Prevention Activities

Pursuant to 40 CFR 51.309(d)(8)(v), the State has used projections made by the WRAP of the short and long-term emissions reductions, visibility improvements, cost savings, and secondary benefits associated with renewable energy goals, energy efficiency, and pollution prevention activities.[27] The document referenced in the prior sentence provides overall projections of visibility improvements for the 16 Class I areas. These projections include the combined effects of all measures in this SIP, including air pollution prevention programs. Although emission reductions and visibility improvements from air-pollution prevention programs are expected at some level, they were not explicitly calculated because the resolution of the regional air quality modeling system is not currently sufficient to show any significant visibility changes resulting from the marginal NO_x emission reductions expected from air pollution prevention programs.

6. Programs to Achieve the GCVTC Renewable Energy Goal

Pursuant to 40 CFR 51.309(d)(8)(vi), the State will rely on current renewable energy programs as described in section I.10.a of the SIP to demonstrate progress in achieving the renewable energy goal of the GCVTC. The GCVTC's goal is that that renewable energy will comprise 10 percent of the regional power needs by 2005 and 20 percent by 2015. The State will submit progress reports in 2013 and 2018, describing the State's contribution toward meeting the GCVTC renewable energy goals. To the extent that it is not feasible for the State to meet its

[27] A complete description of these projections can be found in section I of the Utah TSD in a document titled *Economic Assessment of Implementing the 10/20 Goals and Energy Efficiency Recommendations*

contribution to these goals, the State will identify what measures were implemented to achieve its contribution, and explain why meeting its contribution was not feasible.

K. Additional Recommendations

As part of the 1996 GCVTC report to EPA, the Commission included additional recommendations that EPA did not adopt as part of 40 CFR 51.309. Pursuant to 40 CFR 51.309(d)(9), the State has evaluated the additional recommendations of the GCVTC to determine if any of these recommendations could be practicably included in the SIP.[28] Based on this evaluation, the State determined no additional measures were practicable or necessary to demonstrate reasonable progress (see section J of the SIP).

We are proposing to determine that the State's SIP meets the requirements of 40 CFR 51.309(d)(9).

L. Periodic Implementation Plan Revisions

Pursuant to 40 CFR 51.309(d)(10)(i), section L of the SIP requires the State to submit to EPA, as a SIP revision, periodic progress reports for the years 2013 and 2018. The State will assess whether current programs are achieving reasonable progress in Class I areas within Utah, and Class I areas outside Utah that are affected by emissions from Utah. The State will address the elements listed under 40 CFR 51.309(d)(10)(i)(A) through (G) as summarized below: 1) implementation status of 2003 SIP measures; 2) summary of emissions reductions; 3) assessment of most/least impaired days; 4) analysis of emission reductions by pollutant; 5) significant changes in anthropogenic emissions; 6) assessment of 2003 SIP sufficiency; and 7) assessment

[28] The State's complete evaluation is included in the State's *Report to the Environmental Protection Agency and the Public to Satisfy the Requirements of 40 CFR 51.309(d)(9)* in section J of the State's TSD

of visibility monitoring strategy.

Pursuant to 40 CFR 51.309(d)(10)(ii), the State will take one of the following actions based upon information contained in each periodic progress report. The State will provide a negative declaration statement to EPA saying that no SIP revision is needed if the State determines reasonable progress is being achieved. If the State finds that the SIP is inadequate to ensure reasonable progress due to emissions from outside the State, the State will notify EPA and the other contributing state(s), and initiate efforts through a regional planning process to address the emissions in question. If the State finds that the SIP is inadequate to ensure reasonable progress due to emissions from another country, Utah will notify EPA and provide information on the impairment being caused by these emissions. If the State finds that the SIP is inadequate to ensure reasonable progress due to emissions from within the State, the State will develop emission reduction strategies to address the emissions and revise the SIP no later than one year from the date that the progress report was due.

We propose to determine that the State's SIP meets the requirements of 40 CFR 51.309(d)(10).

M. Interstate Coordination

Pursuant to 40 CFR 51.309(d)(11), the State has participated in regional planning and coordination with other states by participating in the WRAP while developing its emission reduction strategies under 40 CFR 51.309. Appendix D of the SIP contains detailed information on the interstate coordination programs developed by the WRAP and the State's participation in those programs. The backstop trading program in the SIP and companion rules involved coordination of the three states (Wyoming, Utah, and New Mexico, including Albuquerque) in

its development and will continue to involve coordination of the participants once it is implemented.

We propose to determine the State's SIP is consistent with the 40 CFR 51.309(d)(11).

N. Additional Class I Areas

The five Class I areas in Utah (Zion National Park, Bryce Canyon National Park, Arches National Park, Capitol Reef National Park, and Canyonlands National Park) are located on the Colorado Plateau. Since the State does not have Class I areas off the Colorado Plateau, the State of Utah is not required to take action pursuant to 40 CFR 51.309(g)(1).

VI. Proposed Action

In this action, EPA is proposing to partially approve and partially disapprove a Utah SIP revision submitted on May 26, 2011 that addresses the RHR requirements for the mandatory Class I areas under 40 CFR 51.309. Specifically, EPA is proposing to approve all sections of the SIP submittal as meeting the requirements under 40 CFR 51.309, with the exception of the requirements under 40 CFR 51.309(d)(4)(vii) pertaining to NO_x and PM BART. EPA is proposing to disapprove the State's NO_x and PM BART determinations and limits in section D.6.d of the SIP for the following four subject-to-BART EGUs: Pacificorp Hunter Unit 1 and Hunter Unit 2 and PacifiCorp Huntington Unit 1 and Huntington Unit 2. EPA is proposing to disapprove these BART determinations because they do not comply with our regulations under 40 CFR 51.308(e)(1) or sections 110(a)(2) and 169A(g)(2) of the CAA.

We are proposing to approve specific sections of the State's September 9, 2008 SIP submittal. Specifically, we are proposing to approve UAR R307-250, *Western Backstop Sulfur Dioxide Trading Program* and R307-150, *Emission Inventories*. We are taking no action on the

rest of the September 9, 2008 submittal as the May 26, 2011 submittal supersedes and replaces the remaining sections of the September 9, 2008 SIP submittal, except for the requirements pertaining to smoke management. We have taken proposed action on the smoke management requirements in a separate action (76 FR 69217).

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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 proposed rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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 proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities because small entities are not subject to the requirements of this rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, 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 UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more (adjusted for inflation) in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 of UMRA do not apply when they are inconsistent with applicable law. Moreover, section 205 of UMRA allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation

why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Under Title II of UMRA, EPA has determined that this proposed rule does not contain a federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of $100 million by State, local, or Tribal governments or the private sector in any one year. In addition, this proposed rule does not contain a significant federal intergovernmental mandate as described by section 203 of UMRA nor does it contain any regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and

that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely addresses the State not fully meeting its obligation to prohibit emissions from interfering with other states measures to protect visibility established in the CAA. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to

those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes. However, to the extent this proposed rule will limit emissions of NO_x, SO_2, and PM, the rule will have a beneficial effect on children's health by reducing air pollution.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, 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. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering 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 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

We have determined that this proposed action, if finalized, will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

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, does not apply because this action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 26, 2012

James B. Martin
Regional Administrator,
Region 8.

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