

Appendix G-O
Complete Citation of Stationary Source Requirements in
Section 309(h) and 309(f).

1. Section 309(h). The following is new regulatory language from the Proposed Revisions to the Regional Haze Rule to Incorporate Sulfur Dioxide Milestones and Backstop Emissions Trading Program, 67 FR 30418, May 6, 2002. These requirements supplement those for stationary sources, under Section 309(d)(4) "Implementation of stationary source reductions".

51.309(h) Emissions Reduction Program for Major Industrial Sources of Sulfur Dioxide.

The first implementation plan submission must include a stationary source emissions reduction program for major industrial sources of sulfur dioxide that meets the following requirements:

(1) **Regional sulfur dioxide milestones.** The plan must include the milestones in Table 1, and provide for the adjustments in paragraphs 51.309(h)(1)(i) through (iv) of this section. Table 1 follows:

| TABLE 1.—SULFUR DIOXIDE EMISSIONS MILESTONES | | | |
|--|---|---|--|
| Column 1 | Column 2 | Column 3 | Column 4 |
| For the year | . . . if BHP San Manuel and Phelps Dodge Hidalgo resume operation, the maximum regional sulfur dioxide milestone is | . . . if neither BHP San Manuel nor Phelps Dodge Hidalgo resumes operation, the minimum regional sulfur dioxide milestone is | . . . and the emission inventories for these years will determine whether emissions are greater than or less than the milestone: |
| 2003 | 720,000 tons | 682,000 tons | 2003. |
| 2004 | 720,000 tons | 682,000 tons | Average of 2003 and 2004. |
| 2005 | 720,000 tons | 682,000 tons | Average of 2003, 2004 and 2005. |
| 2006 | 720,000 tons | 682,000 tons | Average of 2004, 2005 and 2006. |
| 2007 | 720,000 tons | 682,000 tons | Average of 2005, 2006 and 2007. |
| 2008 | 718,333 tons | 680,333 tons | Average of 2006, 2007 and 2008. |
| 2009 | 716,667 tons | 678,667 tons | Average of 2007, 2008 and 2009. |
| 2010 | 715,000 tons | 677,000 tons | Average of 2008, 2009 and 2010. |
| 2011 | 715,000 tons | 677,000 tons | Average of 2009, 2010 and 2011. |
| 2012 | 715,000 tons | 677,000 tons | Average of 2010, 2011 and 2012. |
| 2013 | 695,000 tons | 659,667 tons | Average of 2011, 2012 and 2013. |
| 2014 | 675,000 tons | 642,333 tons | Average of 2012, 2013 and 2014. |
| 2015 | 655,000 tons | 625,000 tons | Average of 2013, 2014 and 2015. |
| 2016 | 655,000 tons | 625,000 tons | Average of 2014, 2015 and 2016. |
| 2017 | 655,000 tons | 625,000 tons | Average of 2015, 2016 and 2017. |
| 2018 | 510,000 tons | 480,000 tons | Year 2018 only. |
| Each year after 2018 | no more than 510,000 tons unless the milestones are replaced with a different program that meets any BART and reasonable progress requirements established in § 51.309. | no more than 480,000 tons unless the milestones are replaced with a different program that meets any BART and reasonable progress requirements established in § 51.309. | 3-year average of the year and the two previous years, or any alternative provided in any future plan revisions under § 51.308(f). |

(i) Adjustment for States and Tribes Which Choose Not to Participate in the Program, and for Tribes that choose to opt into the program after the 2003 deadline. If a State or Tribe chooses not to submit an implementation plan under the option provided in §51.309, the amounts for that State or Tribe that are listed in Table 2 must be subtracted from the milestones that are included in the implementation plans for the remaining States and Tribes.

For Tribes that opt into the program after 2003, the amounts in Table 2 of 4 will be automatically added to the milestones that are included in the implementation plans for the participating States and Tribes, beginning with the first year after the tribal implementation plan implementing §51.309 is approved by the Administrator. The amounts listed in Table 2 are for purposes of adjusting the milestones only, and they do not represent amounts that must be allocated under any future trading program. Table 2 follows:

TABLE 2.—AMOUNTS SUBTRACTED FROM THE MILESTONES FOR STATES AND TRIBES WHICH DO NOT EXERCISE THE OPTION PROVIDED BY §51.309

| State or Tribe | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|--|---------|---------|---------|---------|---------|---------|---------|---------|
| 1. Arizona | 117,372 | 117,372 | 117,372 | 117,372 | 117,372 | 117,941 | 118,511 | 119,080 |
| 2. California | 37,343 | 37,343 | 37,343 | 37,784 | 37,343 | 36,363 | 35,382 | 34,402 |
| 3. Colorado | 98,897 | 98,897 | 98,897 | 98,897 | 98,897 | 98,443 | 97,991 | 97,537 |
| 4. Idaho | 18,016 | 18,016 | 18,016 | 18,016 | 18,016 | 17,482 | 16,948 | 16,414 |
| 5. Nevada | 20,187 | 20,187 | 20,187 | 20,187 | 20,187 | 20,282 | 20,379 | 20,474 |
| 6. New Mexico | 84,624 | 84,624 | 84,624 | 84,624 | 84,624 | 84,143 | 83,663 | 83,182 |
| 7. Oregon | 26,268 | 26,268 | 26,268 | 26,268 | 26,268 | 26,284 | 26,300 | 26,316 |
| 8. Utah | 42,782 | 42,782 | 42,782 | 42,782 | 42,782 | 42,795 | 42,806 | 42,819 |
| 9. Wyoming | 155,858 | 155,858 | 155,858 | 155,858 | 155,858 | 155,851 | 155,843 | 155,836 |
| 10. Navajo Nation | 53,147 | 53,147 | 53,147 | 53,147 | 53,147 | 53,240 | 53,334 | 53,427 |
| 11. Shoshone-Bannock Tribe of the Fort Hall Reservation | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 |
| 12. Ute Indian Tribe of the Uintah and Ouray Reservation | 1,129 | 1,129 | 1,129 | 1,129 | 1,129 | 1,131 | 1,133 | 1,135 |
| 13. Wind River Reservation | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 |

| State or Tribe | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|---------|---------|---------|---------|---------|---------|---------|--------|
| 1. Arizona | 119,080 | 119,080 | 116,053 | 113,025 | 109,998 | 109,998 | 109,998 | 82,302 |
| 2. California | 34,402 | 34,402 | 33,265 | 32,128 | 30,991 | 30,991 | 30,991 | 27,491 |
| 3. Colorado | 97,537 | 97,537 | 94,456 | 91,375 | 88,294 | 88,294 | 88,294 | 57,675 |
| 4. Idaho | 16,414 | 16,414 | 15,805 | 15,197 | 14,588 | 14,588 | 14,588 | 13,227 |
| 5. Nevada | 20,474 | 20,474 | 20,466 | 20,457 | 20,449 | 20,449 | 20,449 | 20,232 |
| 6. New Mexico | 83,182 | 83,182 | 81,682 | 80,182 | 78,682 | 78,682 | 78,682 | 70,000 |
| 7. Oregon | 26,316 | 26,316 | 24,796 | 23,277 | 21,757 | 21,757 | 21,757 | 8,281 |
| 8. Utah | 42,819 | 42,819 | 41,692 | 40,563 | 39,436 | 39,436 | 39,436 | 30,746 |
| 9. Wyoming | 155,836 | 155,836 | 151,232 | 146,629 | 142,025 | 142,025 | 142,025 | 97,758 |
| 10. Navajo Nation | 53,427 | 53,427 | 52,707 | 51,986 | 51,266 | 51,266 | 51,266 | 44,772 |
| 11. Shoshone-Bannock Tribe of the Fort Hall Reservation | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 | 4,994 |
| 12. Ute Indian Tribe of the Uintah and Ouray Reservation | 1,135 | 1,135 | 1,135 | 1,135 | 1,135 | 1,135 | 1,135 | 1,135 |
| 13. Northern Arapaho and Shoshone Tribes of the Wind River Reservation | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 | 1,384 |

(ii) Adjustment for Future Operation of Copper Smelters.

(A) The plan must provide for adjustments to the milestones in the event that Phelps Dodge Hidalgo and/or BHP San Manuel resume operations or that other smelters increase their operations.

(B) The plan must provide for adjustments to the milestones according to Tables 3a and 3b except that if either the Hidalgo or San Manuel smelters resumes operation and is required to obtain a permit under 40 CFR 52.21 or 40 CFR 51.166, the adjustment to the milestone must be based upon the levels allowed by the permit. In no instance may the adjustment to the milestone be greater than 22,000 tons for the Phelps Dodge Hidalgo, greater than 16,000 tons for BHP San Manuel, or more than 30,000 tons for the combination of the Phelps Dodge Hidalgo and BHP San Manuel smelters for the years 2013 through 2018. Tables 3a and 3b follow:

TABLE 3A.—ADJUSTMENTS TO THE MILESTONES FOR FUTURE OPERATIONS OF COPPER SMELTERS

| Scenario | If this happens . . . | and this happens . . . | . . . then you calculate the milestone by adding this amount to the value in column 3 of Table 1 |
|----------|--|---|--|
| 1 | Phelps Dodge Hidalgo resumes operation, but BHP San Manuel does not. | Phelps Dodge Hidalgo resumes production consistent with past operations and emissions. | A. Beginning with the year that production resumes, and for each year up to the year 2012, the milestone increases by: (1) 22,000 tons PLUS (2) Any amounts identified in Table 3b. B. For the years 2013 through 2018, the milestone increases by this amount or by 30,000 tons, whichever is less. |
| 2 | Phelps Dodge Hidalgo resumes operation, but BHP San Manuel does not. | Phelps Dodge Hidalgo resumes operation in a substantially different manner such that emissions will be less than for past operations (an example would be running only one portion of the plant to produce sulfur acid only). | A. Beginning with the year that production resumes, and for each year up to the year 2012, the milestone increases by: (1) Expected emissions for Phelps Dodge Hidalgo (not to exceed 22,000 tons), PLUS (2) Any amounts identified in Table 3b. B. For the years 2013 through 2018, the milestone increases by this amount or by 30,000 tons, whichever is less. |
| 3 | BHP San Manuel resumes operation, but Phelps Dodge Hidalgo does not. | BHP San Manuel resumes production consistent with past operations and emissions. | A. 16,000 tons PLUS B. Any amounts identified in Table 3b. |
| 4 | BHP San Manuel resumes operation, but Phelps Dodge Hidalgo does not. | BHP San Manuel resumes operations in a substantially different manner such that emissions will be less than for past operations (an example would be running only one portion of the plant to produce sulfur acid only). | A. Expected emissions for BHP (not to exceed 16,000 tons) PLUS B. Any amounts identified in Table 3b. |
| 5 | Both Phelps Dodge Hidalgo and BHP San Manuel resume operations. | Both smelters resume production consistent with past operations and emissions. | A. Beginning with the year that production resumes, and for each year up to the year 2012, the milestone increase by 38,000 tons. B. For the years 2013 through 2018, the milestone increases by 30,000 tons. |

TABLE 3B.—ADJUSTMENTS FOR CERTAIN COPPER SMELTERS WHICH OPERATE ABOVE BASELINE LEVELS
[In tons]

| Where it applies in table 3a, if the following smelter . . . | complies with existing permits but has actual annual emissions that exceed the following baseline level . . . | . . . the milestone increases by the difference between actual emissions and the baseline level, or the following amount, whichever is less |
|--|---|---|
| Asarco Hayden | 23,000 | 3,000 |
| BHP San Manuel | 16,000 | 1,500 |
| Kennecott Salt Lake | 1,000 | 100 |
| Phelps Dodge Chino | 16,000 | 3,000 |
| Phelps Dodge Hidalgo | 22,000 | 4,000 |
| Phelps Dodge Miami | 8,000 | 2,000 |

(iii) Adjustments for changes in emission monitoring or calculation methods. The plan must provide for adjustments to the milestone to reflect changes in sulfur dioxide emission

monitoring or measurement methods for a source that is included in the program, including changes identified under paragraph(h)(2)(iii)(D) of this section. Any such adjustment based upon changes to emissions monitoring or measurement methods must be made in the form of an implementation plan revision that complies with the procedural requirements of §51.102 and §51.103. The implementation plan revision must be submitted to the Administrator no later than the first due date for a periodic report under paragraph (d)(10) of this section following the change in emission monitoring or measurement method.

(iv) Adjustments for changes in flow rate measurement methods. The implementation plan must provide for adjustments to the milestones for sources using the methods contained in 40 CFR part 60, appendix A, Methods 2F, 2G, and 2H.

(v) Adjustments for illegal emissions. The implementation plan must provide for adjustments to the milestones if any source in the program decreases its sulfur dioxide emissions in order to comply with applicable regulations which were in effect prior to the calculation of the source's baseline sulfur dioxide emissions. The plan must provide that the milestone must be decreased by an appropriate amount based on a reforecasted calculation of the source's decreased sulfur dioxide emissions. Any such adjustment based upon illegal emissions must be made in the form of an implementation plan revision that complies with the procedural requirements of §§51.102 and 51.103.

(vi) Adjustment based upon program audits. The plan must provide for appropriate adjustments to the milestones based upon the results of program audits. Any such adjustment based upon audits must be made in the form of an implementation plan revision that complies with the procedural requirements of §§51.102 and 51.103. The implementation plan revision must be submitted to the Administrator no later than the first due date after the audit for a periodic report under (d)(10) of this section.

(vii) Adjustment for individual sources opting into the program. The plan must provide for adjustments to the milestones for any source choosing to participate in the program even though they do not meet the 100 tons per year criterion for inclusion. Any such adjustments must be made in the form of an implementation plan revision that complies with the procedural requirements of §§51.102 and 51.103.

(2) *Requirements for monitoring, record keeping and reporting of actual annual emissions of sulfur dioxide.*

(i) Sources included in the program. The implementation plan must provide for annual emission monitoring and reporting, beginning with calendar year 2003, for all sources whose actual emissions of sulfur dioxide are 100 tons per year or more as of 2003, and all sources whose 165 actual emissions are 100 tons or more per year in any subsequent year. States and Tribes may include other sources, if the implementation plan provides for the same procedures and monitoring as for other sources in a way that is federally enforceable.

(ii) Documentation of emissions calculation methods. The implementation plan must provide documentation, consistent with EPA's applicable guidance on preparation of emissions inventories, of the specific methodology used to calculate emissions for each emitting unit during the base year. The implementation plan must also provide for documentation for each emission unit of any change to the specific methodology for each year after the base year.

(iii) Record keeping. The implementation plan must provide for the retention of records for at least 5 years from the establishment of the record. If a record will be the basis for an adjustment to the milestone as provided for in paragraph(h)(1) of this section, that record must be retained for at least 5 years after the date of the SIP revision which reflects the adjustment.

(iv) Completion and submission of emissions reports. The implementation plan must provide for collection of the emissions data, quality assurance, and public review and submission to the Administrator and to each State and Tribe that has submitted an implementation plan under this section by no later than September 30 of the following year. For sources for which changes in emission quantification methods require adjustments under paragraph (h)(1)(iii) of this section, the emissions reports must reflect the method in place before the change, for each year until the milestone has been adjusted. If each of the States that have submitted an implementation plan under this section has identified a regional planning organization to coordinate the annual comparison with the milestone, the implementation plan must provide for reporting of this information to the regional planning body.

(v) Exceptions reports. The emissions report submitted by each State and Tribe under paragraph (h)(2)(ii) of this section must provide for exceptions reports containing the following:

(A) identification of new or additional sulfur dioxide sources greater than 100 tons per year that were not contained in the previous year emissions report;

(B) identification of sources shut down or removed from the previous year emissions report;

(C) explanation for emissions variations at any covered source that exceeds plus or minus 20 percent from the previous year emissions report;

(D) identification and explanation of new emissions monitoring and reporting methods at any source. The use of any new methods requires an adjustment to the milestones according to paragraph (h)(1)(iii) of this section.

(vi) Reporting of emissions for the Mohave Generating Station for the years 2003 through 2006. For the years 2003, 2004, 2005, and for any part of the year 2006 before installation and operation of sulfur dioxide controls at the Mohave Generating Station, emissions from the Mohave Generating Station will be calculated using a sulfur dioxide emission factor of 0.15 pounds per million BTU.

(vii) Special provision for the year 2013. The implementation plan must provide that in the emissions report for calendar year 2012, which is due by September 30, 2013 under paragraph(h)(2)(ii) of this section, each State has the option of including calendar year 2018 emission projections for each source, in addition to the actual emissions for each source for calendar year 2012.

(3) *Annual comparison of emissions to the milestone.*

(i) The implementation plan must provide for a comparison each year of annual SO₂ emissions for the region against the appropriate milestone. In making this comparison:

(A) Each State or Tribe must make the comparison, using its annual emissions report and emissions reports from other States and Tribes reported under paragraph(h)(2)(ii) of this section, or

(B) Where each State or Tribe has designated a regional planning organization for this purpose, the regional planning organization makes the comparison, using information provided by each State and Tribe.

(ii) Beginning with an initial public review draft report due December 31, 2004 that makes the comparison for the year 2003 milestone, the implementation plan must provide the public with a public review draft comparison by no later than December 31 of each year. This public review draft must be issued by each State or Tribe or in a coordinated report by the regional planning body.

(iii) The implementation plan must provide for a final determination by each State or Tribe, or by the regional planning organization designated by each State or Tribe, of whether or not the annual milestone is exceeded. The determination must take into account public comments on the draft report. This determination must be submitted to the Administrator by the end of March of the year following issuance of the initial public review draft report. The first final determination will be due to the Administrator on March 31, 2005.

(iv) Special considerations for year 2012 report. If each State or Tribe has included calendar year 2018 emission projections under paragraph (h)(2)(v) of this section, then the report for the year 2012 milestone which is due by December 31, 2013 under paragraph (h)(3)(ii) of this section may also include a comparison of the regional year 2018 emissions projection with the milestone for calendar year 2018. If the report indicates that the year 2018 milestone will be exceeded, then each State or Tribe, or the regional planning organization may choose to implement the market trading program beginning in the year 2018.

(v) Independent review. The implementation plan shall provide for reviews of the annual emissions reporting program by an independent third party. This independent review is not required if a determination has been made under paragraph (h)(3)(iii) of this section to implement the market trading program. The independent review shall be completed by the end of 2006, and every 5 years thereafter, and shall include an analysis of:

(A) the uncertainty of the reported emissions data;

(B) whether the uncertainty of the reported emissions data is likely to have an adverse impact on the annual determination of emissions relative to the milestone; and,

(C) whether there are any necessary improvements for the annual administrative process for collecting the emissions data, reporting the data, and obtaining public review of the data.

(4) **Market trading program.** The implementation plan must provide for implementation of a market trading program if the determination required by paragraph (h)(3)(iii) of this section indicates that a milestone has been exceeded. The implementation plan must provide for the option of implementation of a market trading program if a report under paragraph (h)(3)(iv) of this section indicates that projected emissions for the year 2018 will exceed the year 2018 milestone. The implementation plan must provide for a market trading program whose provisions are the same for each State or Tribe submitting an implementation plan under this section. The implementation plan must include the following market trading program provisions:

(i) Allowances. For each source in the program, the implementation plan must identify the specific allocation of allowances, on a tons per year basis, for each calendar year from 2009 to 2018. The total of the tons per year allowances across all participating States and Tribes may not exceed the amounts in Table 4 of this paragraph, less a 20,000 ton amount that

must be set aside for use by Tribes. The implementation plan may include procedures for redistributing the allowances in future years, so long as the amounts in Table 4 of this paragraph, less a 20,000 ton amount, are not exceeded. The implementation plan must provide that any adjustment for a calendar year applied to the milestones under paragraphs (h)(1)(i) through (v) of this section must also be applied to the amounts in Table 4. Table 4 follows:

TABLE 4.—TOTAL AMOUNT OF ALLOWANCES BY YEAR

| For this year: | If the two smelters re-smelters resume operations, the total number of allowances issued by States and Tribes may not exceed this amount: | If the two smelters do not resume operations, the total number of allowances issued by States and Tribes may not exceed this amount: |
|----------------|---|--|
| 2009 | 715,000 | 677,000 |
| 2010 | 715,000 | 677,000 |
| 2011 | 715,000 | 677,000 |
| 2012 | 715,000 | 677,000 |
| 2013 | 655,000 | 625,000 |
| 2014 | 655,000 | 625,000 |
| 2015 | 655,000 | 625,000 |
| 2016 | 655,000 | 625,000 |
| 2017 | 655,000 | 625,000 |

(ii) Compliance with allowances. The implementation plan provide that, beginning with the compliance period 6 years following the calendar year for which emissions exceeded the milestone and for each compliance period thereafter, each source owner must hold allowances for each ton of sulfur dioxide emitted.

(iii) Emissions quantification protocols. The implementation plan must include specific emissions quantification protocols for each source category included within the program, including the identification of sources subject to part 75 of this chapter. For sources subject to part 75 of this chapter, the implementation plan may rely on the emissions quantification protocol in part 75. For source categories with sources in more than one State submitting an implementation plan under this section, each State must use the same protocol. The protocols must provide consistent approaches for all sources within a given source category. The protocols must provide for reliability (repeated application obtains results equivalent to EPA approved test methods), and replicability (different users obtain the same or equivalent results that are independently verifiable). The protocols must include procedures for addressing missing data, which provide for conservative calculations of emissions and provide sufficient incentives for sources to comply with the monitoring provisions.

(iv) Monitoring and Record keeping. The implementation plan must include monitoring provisions which are consistent with the emissions quantification protocol. Monitoring required by these provisions must be timely, of sufficient frequency, and ensure the enforceability of the program. The implementation plan must also include requirements that source owners or operators keep records consistent with the emissions quantification protocols, and keep all records used to determine compliance for at least 5 years, unless a longer period is required by paragraph (h)(2)(iii) of this section. For source owners or operators who use banked

allowances, all records relating to the banked allowance must be kept for at least 5 years after the banked allowances are used.

(v) Tracking system. The implementation plan must provide for submitting data to a centralized system for the tracking of allowances and emissions. The implementation plan must provide that all necessary information regarding emissions, allowances, and transactions is publicly available in a secure, centralized database. The system must ensure that each allowance may be uniquely identified, allow for frequent updates, and include enforceable procedures for recording data.

(vi) Authorized account representative. The implementation plan must include provisions requiring the owner or operator of each source in the program to identify an authorized account representative. The implementation plan must provide that all matters pertaining to the account, including, but not limited to, the deduction and transfer of allowances in the account, and certifications of the completeness and accuracy of emissions and allowances transactions required in the annual report under paragraph(h)(4)(vi) of this section shall be undertaken only by the authorized account representative.

(vii) Annual report. The implementation plan must include provisions requiring the authorized account representative for each source in the program to demonstrate and report within a specified time period following the end of each calendar year that the source holds allowances for each ton per year of SO₂ emitted. The implementation plan shall require the authorized account representative to submit the report within 60 days of the end of each calendar year, unless an alternative deadline is specified consistent with emission monitoring and reporting procedures.

(viii) Allowance transfers. The implementation plan must include provisions detailing the process for transferring allowances between parties.

(ix) Emissions banking. The implementation plan may provide provisions for the banking of unused allowances. Any such provisions must state whether unused allowances may be kept for use in future years and describe any restrictions on the use of any such allowances. Allowances kept for use in future years may be used in calendar year 2018 only to the extent that the implementation plan ensures that such allowances would not interfere with the achievement of the year 2018 amount in Table 4 in paragraph (C)(4)(i) of this section.

(x) Penalties. The implementation plan must include specific enforcement penalties to be applied if emissions from a source in the program exceed the allowances held by the source. In establishing specific enforcement penalties, the State or Tribe must ensure that:

- (A) When emissions from a source in the program exceed the allowances held by the source, each day of the year is a separate violation; and
- (B) Each ton of excess emissions is a separate violation.

(xi) Provisions for periodic evaluation of the trading program. The implementation plan must provide for an evaluation of the trading program no later than 3 years following the first full year of the trading program, and at least every 5 years thereafter. Any changes warranted by the evaluation should be incorporated into the next periodic SIP or TIP revision required under paragraph (d)(10) of this section. The evaluation should be conducted by an independent third party and should include an analysis of:

- (A) Whether the total actual emissions could exceed the values in §51.309(h)(4)(i), even though sources comply with their allowances;
- (B) Whether the program achieved the overall emission milestone it was intended to reach, and a discussion of actions that have been necessary to reach the milestone;
- (C) The effectiveness of the compliance, enforcement and penalty provisions;
- (D) The administrative costs of the program to sources and to State and tribal regulators, including a discussion of whether States and Tribes have enough resources to implement the trading program;
- (E) Whether the market trading program has likely led to decreased costs for reaching the milestone relative to a non-market based approach, including a discussion of the market price of allowances relative to control costs that might have otherwise been incurred;
- (F) Whether the trading program resulted in any unexpected beneficial effects, or any unintended detrimental effects;
- (G) Whether the actions taken to reduce sulfur dioxide have led to any unintended increases in other pollutants;
- (H) Whether there are any changes needed in emissions monitoring and reporting protocols, or in the administrative procedures for program administration and tracking;
- (I) The effectiveness of the provisions for interstate trading, and whether there are any procedural changes needed to make the interstate nature of the program more effective.

(5) *What other provisions are required for the program?*

The implementation plan must provide for:

- (i) Permitting of affected sources. For sources subject to part 70 or part 71 of this chapter, the implementation plan requirements for emissions reporting and for the trading program under paragraph (h) of this section must be incorporated into the part 70 or part 71 permit. For sources not subject to part 70 or part 71, the requirements must be incorporated into a permit that is enforceable as a practical matter by the Administrator, and by citizens to the extent permitted under the CAA.
- (ii) Integration with other programs. In addition to the requirements of paragraph(h) of this section, the restrictions of State, tribal and local rules, and State, Tribal and Federal law remain in place. No provision of paragraph (h) of this section should be interpreted as exempting any source from compliance with any other provision of State, tribal or local law, the applicable and approved implementation plan, the tribal implementation plan, a federally enforceable permit, or implementing regulations under the CAA.

1. Section 309(f). The following is the rule language related to the Annex.

(f) *Annex to the Commission Report.*

(1) A Transport Region State may choose to comply with the provisions of this section and by doing so shall satisfy the requirements of §51.308(b)-(e) only if the Grand Canyon Visibility Transport Commission (or a regional planning body formed to implement the Commission recommendations) submits a satisfactory annex to the Commission Report no later than October 1, 2000. To be satisfactory, the Annex must contain the following elements:

- (i) The annex must contain quantitative emissions milestones for stationary source sulfur dioxide emissions for the reporting years 2003, 2008, 2013 and 2018. The milestones must

provide for steady and continuing emissions reductions for the 2003–2018 time period consistent with the

Commission's definition of reasonable progress, its goal of 50 to 70 percent reduction in sulfur dioxide emissions from 1990 actual emission levels by 2040, applicable requirements under the CAA, and the timing of implementation plan assessments of progress and identification of deficiencies which will be due in the years 2008, 2013, and 2018. The milestones must be shown to provide for greater reasonable progress than would be achieved by application of best available retrofit technology (BART) pursuant to § 51.308(e)(2) and would be approvable in lieu of BART.

(ii) The annex must contain documentation of the market trading program or other programs to be implemented pursuant to paragraph (d)(4) of this section if current programs and voluntary measures are not sufficient to meet the required emission reduction milestones. This documentation must include model rules, memoranda of understanding, and other documentation describing in detail how emission reduction progress will be monitored, what conditions will require the market trading program to be activated, how allocations will be performed, and how the program will operate.

(2) The Commission may elect, at the same time it submits the annex, to make recommendations intended to demonstrate reasonable progress for other mandatory Class I areas (beyond the original 16) within the Transport Region States, including the technical and policy justification for these additional mandatory Class I Federal areas in accordance with the provisions of §51.309(g).

(3) The EPA will publish the annex upon receipt. If EPA finds that the annex meets the requirements of §51.309(f)(1) and assures reasonable progress, then, after public notice and comment, will amend the requirements of §51.309(d)(4) to incorporate the provisions of the annex within one year after EPA receives the annex. If EPA finds that the annex does not meet the requirements of §51.309(f)(1), or does not assure reasonable progress, or if EPA finds that the annex is not received, then each Transport Region State must submit an implementation plan for regional haze meeting all of the requirements of §51.308.

(4) In accordance with the provisions under §51.309(f)(1), the annex may include a geographic enhancement to the program provided for in §51.309(d)(4) to address the requirement under §51.302(c) related to Best Available Retrofit Technology for reasonably attributable impairment from the pollutants covered by the milestones or the backstop market trading program. The geographic enhancement program may include an appropriate level of reasonably attributable impairment which may require additional emission reductions over and above those achieved under the milestones defines in §51.309(f)(1)(i).