

[The following document is a model implementation plan to implement regional SO<sub>2</sub> milestones and a backstop trading program in accordance with section 309 of the regional haze rule. The regional haze rule establishes the mandatory requirements that must be met by a state implementation plan and establishes provisions that potentially may be used in a tribal implementation plan. This model implementation plan was developed through the broad stakeholder process of the WRAP as a template to facilitate consistent, multi-jurisdictional implementation of section 309. The template does not establish the only acceptable way to implement section 309, but it does have the benefit of extensive review and discussion by the many stakeholders involved in the WRAP process, including EPA review and comment. A state or tribe that develops alternate language will need to demonstrate to the other participating states and tribes and EPA that their plan and accompanying rules will respect the sovereignty of other participating states and tribes; satisfies the regional haze rule; be enforceable; be consistent with the emissions and allowance tracking provisions and trading provisions in implementation plans developed by other participating states and tribes; and be administratively practicable.]

## **SO<sub>2</sub> Milestones and Backstop Trading Program Model SIP/TIP**

**DRAFT: April 23, 2008**

### **Background**

The SO<sub>2</sub> Milestones and Backstop Trading Program was developed to implement the emissions reduction program for major industrial sources of sulfur dioxide in accordance with 40 CFR 51.309(d)(4). The program is implemented through the following documents:

- SO<sub>2</sub> Milestones and Backstop Trading Program Model SIP/TIP [change to citation for state/tribe's implementation plan] describes the overall program, and contains [state or tribe]'s commitment to implement all parts of the program as outlined in the plan. The plan establishes the regional milestones, SO<sub>2</sub> emissions tracking requirements, and if the Western Backstop SO<sub>2</sub> Trading Program ("WEB Trading Program") is triggered, the plan also describes how [state or tribe] shall determine allocations and manage the allowance tracking system that is needed to implement the program.
- Western Backstop SO<sub>2</sub> Trading Program Model Rule [change to citation for state/tribe's individual "WEB rule"] contains the requirements that shall apply to major industrial sources of sulfur dioxide as a backstop regulatory program if the SO<sub>2</sub> milestones are exceeded. The rule may never be implemented if the goal to meet the regional SO<sub>2</sub> milestones through voluntary means is achieved. If the rule is implemented, it establishes the procedures and compliance requirements for sources in the Trading Program.
- [State's or tribe's existing emissions inventory or equivalent rule] requires major industrial sources of SO<sub>2</sub> to submit an annual emissions inventory in the pre-trigger phase of the program to measure compliance with the regional SO<sub>2</sub> milestones. If the

backstop program is triggered then these requirements will eventually be replaced by more rigorous monitoring requirements in [state/tribe's "WEB rule"].

*Note: References to the state/tribe's WEB rule throughout this model SIP/TIP text refer to the individual rule that each participating state and tribe will adopt that is based on the WRAP's WEB SO<sub>2</sub> Trading Program Model Rule.*

## **Definitions**

*Note: For the states or tribes that do not include a separate definition section in their Implementation Plans, the definitions below must be incorporated into the body of the [state or tribal] Implementation Plan.*

The definitions in this part apply only to this Implementation Plan:

**Account Certificate of Representation** means for a WEB Source the completed and signed submission required to designate an Account Representative for a WEB source who is authorized to represent the owners and operators of the WEB source with regard to matters under the WEB Trading Program and for a general account, the individual who is authorized to represent the persons having an ownership interest with respect to allowances in the general account with regard to matters concerning the general account.

**Account Representative** means the individual who is authorized through an Account Certificate of Representation to represent owners and operators of the WEB source with regard to matters under the WEB Trading Program (including, for example, to transfer and otherwise manage allowances and certify all submissions to the Allowance Tracking System and the emissions tracking database for the purposes of the Rule) or, for a general account, who is authorized through an Account Certificate of Representation to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account.

**Act** means the Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.*

**Actual Emissions** means total annual sulfur dioxide emissions determined in accordance with Section I of the WEB Trading Program Rule, or determined in accordance with [refer to state or tribal inventory rule or equivalent] for sources that are not subject to Section I of the WEB Trading Program Rule.

**Allocate** means to assign allowances to a WEB source through Section C1 of this Implementation Plan.

**Allowance** means the limited authorization under the WEB Trading Program to emit one ton of SO<sub>2</sub> during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by the Rule.

**Allowance limitation** means the tonnage of SO<sub>2</sub> emissions authorized by the allowances available for compliance deduction for a WEB source for a control period under Section L1 of the Rule on the allowance transfer deadline for that control period.

**Allowance Tracking System** means the system developed by [state or tribe] where allowances under the WEB Trading Program are recorded, held, transferred and deducted.

**Allowance Tracking System account** means an account in the Allowance Tracking System established for purposes of recording, holding, transferring, and deducting allowances.

**Compliance account** means an account established in the Allowance Tracking System under Section H1 of the Rule for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation.

**Control period** means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.

**Emissions tracking database** means the central database where SO<sub>2</sub> emissions for WEB sources as recorded and reported in accordance with the Rule are tracked to determine compliance with allowance limitations.

**Emission unit** means any part of a stationary source that emits or would have the potential to emit any pollutant submitted to regulations under the Clean Air Act.

**EPA Administrator** means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

**Existing source** means a stationary source that commenced operation before the Program Trigger Date.

**Floor allocation** means the amount of allowances set by the [state or tribe] in accordance with this Plan that represents the minimum necessary for a source to operate under stringent control assumptions.

**General account** means an account established in the Allowance Tracking System under Section H for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation.

**Milestone** means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018, established according to the procedures in Section A of the Implementation Plan.

**New WEB Source** means a WEB source that commenced operation on or after the Program Trigger Date.

**New Source Set-aside** means a pool of allowances that are available for allocation to new WEB sources and modified WEB sources that have increased capacity in accordance with the provisions of Section C1.3 of the Implementation Plan.

**Potential to emit** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA Administrator.

**Program Trigger Date** means the date that [state or tribe] determines that the WEB Trading Program has been triggered in accordance with the provisions of Section A2 of the Implementation Plan.

**Reducible allocation** means the amount of allowances set by [state or tribe] in accordance with Section C1.1(b)(9) of this Plan that represents, for each source, emissions in excess of the floor allocation that shall be reduced over time as the regional milestone is decreased.

**Renewable Energy Resource** means a resource that generates electricity by non-nuclear and non-fossil technologies that results in low or no air emissions. The term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meets the Low-Impact Hydropower Institute criteria. Biomass includes agricultural, food and wood wastes. For the purposes of this Plan, a renewable energy resource does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood.

**Retired source** means a WEB source that has received a retired source exemption as provided in Section D3 of the WEB Trading Program Rule. Any retired source resuming operations under D3(d) of the WEB Trading Program Rule, must submit its exemption as part of its registration materials.

**Special Reserve Compliance Account** means an account established in the allowance tracking system under Model Rule provision H.1 for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation for emission units that are monitored for sulfur dioxide in accordance with Model Rule provision I.1(b).

**Stationary source** means any building, structure, facility or installation that emits or may emit any air pollutant subject to regulation under the Clean Air Act.

**Ton** means 2000 pounds and, for any control period, any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons.

**Tracking System Administrator** means the person designated by [state or tribe] as the administrator of the WEB Allowance Tracking System and the emission tracking database.

**Tribal Set-Aside** means a 8,500-ton SO<sub>2</sub> WEB allowance allocated to tribes on an annual basis. The tribes will decide how to distribute the allowances in the set-aside among tribes in the region. The set-side is intended to ensure equitable treatment for tribal economies and to prevent barriers to economic development.

**Trigger** refers to the activation of the WEB Trading Program for SO<sub>2</sub> in accordance with Section A of the Implementation Plan.

**WEB source** means a stationary source that meets the applicability requirements of Section D of the Model Rule.

**Western Backstop SO<sub>2</sub> Trading Program (“WEB Trading Program”)** refers to the Rule that shall be triggered as a backstop in accordance the provisions in Section A of this Implementation Plan to ensure that regional SO<sub>2</sub> emissions are reduced.

**Western Regional Air Partnership (WRAP)** means the collaborative effort of tribal governments, state governments, and federal agencies to promote and monitor implementation of recommendations from the Grand Canyon Visibility Transport Commission authorized under Section 169B(f) of the Act, and to address other common Western regional air quality issues.

## Part A—Milestones and Determination of Program Trigger

### A1 Regional SO<sub>2</sub> Milestones

#### A1.1 Milestone Values

The regional sulfur dioxide milestones for the years 2003 through 2018 are provided in Table 1. The milestones shall be adjusted annually as described in paragraphs A1.2 of [state or tribal] Implementation Plan.

**TABLE 1. Sulfur Dioxide Emissions Milestones**

Column 1	Column 2	Column 3
For the year	the regional sulfur dioxide milestone is	and the annual SO <sub>2</sub> emissions for these years will determine whether emissions are greater than or less than the milestone
2003 <sup>1</sup>	420,637 tons SO <sub>2</sub>	2003
2004	420,637 tons SO <sub>2</sub>	Average of 2003 and 2004
2005	420,637 tons SO <sub>2</sub>	Average of 2003, 2004 and 2005
2006	420,637 tons SO <sub>2</sub>	Average of 2004, 2005 and 2006
2007	420,637 tons SO <sub>2</sub>	Average of 2005, 2006 and 2007
2008	378,398 tons SO <sub>2</sub>	Average of 2006, 2007 and 2008
2009	336,160 tons SO <sub>2</sub>	Average of 2007, 2008 and 2009
2010	293,921 tons SO <sub>2</sub>	Average of 2008, 2009 and 2010
2011	293,921 tons SO <sub>2</sub>	Average of 2009, 2010 and 2011
2012	293,921 tons SO <sub>2</sub>	Average of 2010, 2011 and 2012

<sup>1</sup> The 2003 through 2007 milestones have been adjusted to include only the four states that are part of the regional backstop trading program using the adjustment methodology in the 2003 Regional Haze SIP.

Column 1	Column 2	Column 3
For the year	the regional sulfur dioxide milestone is	and the annual SO <sub>2</sub> emissions for these years will determine whether emissions are greater than or less than the milestone
2013	278,985 tons SO <sub>2</sub>	Average of 2011, 2012 and 2013
2014	264,050 tons SO <sub>2</sub>	Average of 2012, 2013 and 2014
2015	249,114 tons SO <sub>2</sub>	Average of 2013, 2014 and 2015
2016	249,114 tons SO <sub>2</sub>	Average of 2014, 2015 and 2016
2017	249,114 tons SO <sub>2</sub>	Average of 2015, 2016 and 2017
2018	234,624 tons SO <sub>2</sub>	Year 2018 only
2019 forward, until replaced by an approved SIP	234,624 tons SO <sub>2</sub>	Annual; no multiyear averaging

#### A1.2. Smelter Specific Set-Aside.

Since 1990 the existing copper smelters in the west have made significant SO<sub>2</sub> emission reductions. In addition, 3 of the 6 smelters that were operating in 1990 have now been permanently closed. Because of the global nature of this industry, it is not expected that any new copper smelters will be constructed between 2008 and 2018. Representative emission estimates were developed for the existing copper smelters in the 2003 SIP. These estimates have been reviewed and determined to be a good estimate of future emissions from these smelters through 2018. There is the possibility that ore from mines located near the closed smelters could be transported to the existing smelters for processing. A small smelter-specific set-aside has been created to account for this possible production increase. The smelter-specific set-aside will be determined using the calculation procedures in provision A3.4 and the set-aside will be added to the milestone to account for capacity expansion at the remaining smelters. This set-aside shall only be available for use if sulfur input and emissions from the copper smelters are above the baseline levels listed in Table 2 in any particular year as a result of increased capacity. The increase to the milestone will be based on a smelter's proportional increase above its baseline sulfur input. The set-aside shall be recalculated every year to reflect actual operations of the remaining copper smelters. The set-aside may not be traded.

**TABLE 2. Preliminary Smelter-Specific Set Aside**

Company / Smelter	Baseline Sulfur input	Baseline Allocation	Smelter-specific Set-aside
Asarco Hayden	235,000 tons	23,000 tons SO <sub>2</sub>	3,000 tons SO <sub>2</sub>
Kennecott Salt Lake	340,269 tons	1,000 tons SO <sub>2</sub>	100 tons SO <sub>2</sub>

<b>TOTAL</b>	<b>575,269 tons</b>	<b>24,000 tons SO<sub>2</sub></b>	<b>3,100 tons SO<sub>2</sub></b>
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Note: The smelter baseline has decreased from 86,000 tons SO<sub>2</sub> in the 2003 SIP to the current value of 24,000 tons SO<sub>2</sub> due to the permanent closure of the BHP San Manuel, Phelps Dodge Chino, and Phelps Dodge Hidalgo smelters. The Phelps Dodge Miami smelter is not included in this table because the smelter is currently operating at its permitted limit and therefore does not have a smelter-specific set aside. Total smelter emissions were 148,510 tons SO<sub>2</sub> in 1990.

### A1.3 Other Milestone Adjustments

(a) All other milestone adjustments shall require a SIP revision. Section A3.3 of this plan outlines adjustments to be made to the emissions inventory to ensure a consistent comparison to the milestones. These adjustments shall be incorporated into the milestones every five years as part of the periodic Implementation Plan revisions required by 40 CFR 51.309(d)(10). [State or tribe] shall track all adjustments to the milestone pursuant to section A3.3.

(b) Within ninety days of the periodic Implementation Plan revision incorporating adjustments based on section A3.3, the [state or tribe] shall provide the date of the SIP revision reflecting the milestone adjustment to sources whose records were used as the basis for the milestone adjustment and state that the source needs to retain the record at least five years from the date of the SIP revision, or ten years from the date of establishing the record, whichever is longer.

(c) Opt-in Provisions for States and Tribes. The regional milestones in Table 1 were developed for a 4-state region: Arizona, New Mexico, Utah, and Wyoming. Other western states and tribes may choose to join this backstop trading program in the future. The addition of a state or tribe to the program will require a SIP/TIP revision for all participating states and tribes to adjust the regional milestones, and will not occur automatically. Any state or tribe that wishes to opt in to the program will propose milestone adjustments to the participating states and tribes using the same methodology that was used to develop the milestones in Table 1. A new participant must agree to develop a SIP and backstop trading rule that is consistent with those adopted by the other participating states and tribes.

## A2 Regional Program Administration

### A2.1 Pre-trigger tracking of regional SO<sub>2</sub> emissions.

[State or tribe] shall work cooperatively with the states and tribes that are participating in the SO<sub>2</sub> Milestones and Backstop Trading Program to ensure that an emission tracking system for the regional SO<sub>2</sub> inventory is developed and maintained. The Western Regional Air Partnership (WRAP) compiled the SO<sub>2</sub> emission inventories that were used during the development of the Annex and subsequent SIP revisions, and the WRAP continues to refine and improve the overall tracking system for regional haze. The WRAP shall maintain the pre-trigger emissions tracking functions outlined in this plan for the foreseeable future. If the WRAP is no longer able to fulfill this function, then [state or tribe] shall ensure that other arrangements are made, either through a different regional organization or through a contractor to maintain the SO<sub>2</sub> tracking system that is described in this plan. [State or tribe] is responsible for all regional program administration functions as described in this plan. The [state or tribe] shall perform these functions through the WRAP, as the [state or tribes]’s agent. The WRAP shall have no authority to make regulatory

determinations. The WRAP has limited authority under this plan to perform tracking and accounting functions, prepare reports, and perform other administrative functions as directed by the states and tribes. [State or tribe] shall work expeditiously to correct any problems if the WRAP fails to perform any of the functions described in the SIP/TIP in a timely manner.

#### A2.2 Designation of the Tracking System Administrator

If the backstop trading program is triggered due to an exceedance of the SO<sub>2</sub> milestones as outlined in Section A3 of this plan, [State or tribe] shall work cooperatively with the other participating states and tribes to designate one Tracking System Administrator (TSA). The TSA shall be designated as expeditiously as possible, but no later than six months after the program trigger date. In addition, before the TSA is designated, the [state or tribe] shall have entered into a binding contract with the TSA that shall require the TSA to perform all TSA functions described in this plan. In addition, the [state or tribe] must obtain sufficient authority to ensure the functions in the Implementation Plan are carried out by the TSA.

#### A2.3 Information Provided by other States and Tribes

[State or tribe] shall accept the emission inventory and permitting information provided by the other participating states and tribes in order to determine the milestone value and program trigger if such other states and tribes have provided proper documentation and followed the public notification process outlined in Sections A3.6 through A3.8 of this Implementation Plan.

### **A3 Determination of Program Trigger**

A3.1 [State or tribe] shall submit an annual emissions report to the WRAP and all participating states and tribes by September 30 of each year. The report shall document actual sulfur dioxide emissions during the previous calendar year for all sources subject to the requirements of [refer to applicability language in emission inventory rule, or equivalent for pre-trigger tracking requirements] in [state or tribe]. The first report for calendar year 2003 shall be submitted by September 30, 2004. The [state or tribe] shall prepare the supporting documentation that is included with the annual emissions report as noted in provisions A3.2 and A3.3 below.

*Note: Tribes do not need to submit TIPs by 2003 and should determine the appropriate year to use for this example in their TIP.*

A3.2 The annual emissions report for [State or tribe] shall include a source emissions change report that contains the following information:

- (a) identification of any new sources that were not contained in the previous calendar year's emissions report, and an explanation of why the source is now included in the program;
- (b) identification of any sources that were included in the previous year's report and are no longer included in the program, and an explanation of why this change has occurred; and
- (c) an explanation for emissions variations at any applicable source that exceeds +/- 20 percent from the previous year.

A3.3 The annual emissions report for [State or tribe] shall include a proposed emissions adjustment as described in (a) through (c) to ensure a consistent comparison to the milestones.

(a) Changes in flow rate measurement methods. The provisions in this subsection (a) shall apply only to the 2003-2007 milestone report. Actual emission inventories for utilities that use EPA's Reference Method 2F, 2G, or 2H to measure stack flow rate will be adjusted to be comparable with the flow rate assumptions that were used in 1999, the base year inventory for the Annex. The adjustment may be calculated using any of the following three methods.

1. Directly determine the difference in flow rate through a side-by-side comparison of data collected with the new and old flow reference methods during a RATA test.

2. Compare the annual average heat rate using Acid Rain heat input data (MMBtu) and total generation (MWHrs) as reported to the federal Energy Information Administration (EIA). Under this approach, the flow adjustment factor shall be calculated using the following ratio:

$$\frac{\text{Heat input/MW for first full year of data using new flow rate method}}{\text{Heat input/MW for last full year of data using old flow rate method}}$$

3. Compare the standard CFM per MW before and after the new flow reference method based on CEMs data submitted in the Acid Rain Program, as follows:

$$\frac{\text{SCF/Unit of Generation for first full year of data using new flow rate method}}{\text{SCF/Unit of Generation for last full year of data using old flow rate method}}$$

(b) Changes in emission monitoring or calculation methods. Actual emission inventories for sources that change the method of monitoring or calculating their emissions shall be adjusted to be comparable to the emission monitoring or calculation method that was used in the base year inventory. The base year inventory for the 2003-2007 milestone reports is 1999 for utilities and 1998 for all other sources. The base year inventory for the 2008 and later milestone reports is the 2006 inventory for all sources.

(c) Changes due to enforcement actions

1. Adjustments due to enforcement actions arising from settlements. Adjustments to the milestones shall be made as specified in Section A3.3(c)3 and 4, if:

(A) an agreement to settle an action, arising from allegations of a failure of an owner or operator of an emissions unit at a source in the program to comply with applicable regulations which were in effect during the base year, is reached between the parties to the action;

(B) the alleged failure to comply with applicable regulations affects the assumptions that were used in calculating the source's base year and forecasted sulfur dioxide emissions; and

(C) the settlement includes or recommends an adjustment to the milestones.

2. Adjustments due to enforcement actions arising from administrative or judicial orders. Adjustments shall be made to the milestones as directed by any final administrative or judicial order, as specified in Section A3.3(c)3 and 4. Where the final administrative or judicial order does not include a reforecast of the source's baseline, [state or tribe] shall evaluate whether a reforecast of the source's baseline emissions is appropriate.

3. Adjustments for enforcement actions. Based on A3.3(c)3 and 4, the milestone must be decreased by an appropriate amount based on a reforecast of the source's decreased sulfur dioxide emissions. The adjustments to the milestone do not become effective until after the source has reduced its sulfur dioxide emissions as required in the settlement agreement, or administrative or judicial order. All adjustments based upon enforcement actions must be made in the form of an implementation plan revision that complies with the procedural requirements of 40 CFR 51.102 and 40 CFR 51.103.

4. Documentation of adjustments for enforcement actions. In the periodic plan revision required under 40 CFR 51.309(d)(10), [state or tribe] shall include the following documentation of any adjustment due to an enforcement action:

- (A) identification of each source under [state or tribe's] jurisdiction which has reduced sulfur dioxide emissions pursuant to a settlement agreement, or an administrative or judicial order;
- (B) for each source identified, a statement indicating whether the milestones were adjusted in response to the enforcement action;
- (C) discussion of the rationale for [state or tribe's] decision to adjust or not to adjust the milestones; and
- (D) if extra SO<sub>2</sub> emissions reductions (over and above those reductions needed for compliance with the applicable regulations) were part of an agreement to settle an action, a statement indicating whether such reductions resulted in any adjustment to the milestones or allowance allocations, and a discussion of the rationale for [state or tribe's] decision on any such adjustment.

A3.4 The annual sulfur dioxide milestone and emissions report for [State or tribe] shall document any adjustments that should be made to the milestone for the previous year as described in (a) below.

(a) This provision applies only to Arizona and Utah  
Comparison of actual emissions from all smelters in [state] to the baseline emissions level for that smelter listed in Table 3. If actual emissions and sulfur input are greater than the baseline levels in Table 3, [state] shall determine the milestone adjustment by determining the increase in the milestone based on the proportional increase in sulfur input over baseline levels. For each smelter, the adjustment shall not exceed the smelter-specific set-aside listed in Table 3.

The following example is for illustrative purposes:  
Asarco's baseline SO<sub>2</sub> emissions are 23,000 tons  
Asarco's baseline sulfur input is 235,000 tons

For example, in 2005:  
Asarco's SO<sub>2</sub> emissions were 25,000 tons  
Asarco's sulfur input was 250,000 tons.

Because Asarco's 2005 emissions and sulfur input exceeded its baseline emissions and sulfur input: need to calculate the percent increase in sulfur input in the year 2005  
= [(2005 sulfur input) - (baseline sulfur input)] ÷ [baseline sulfur input]  
= [250,000 - 235,000] ÷ [235,000]  
= [15,000] ÷ [235,000]  
= 0.0638  
= 6.38%

The adjustment to the milestone based on Asarco's increase in production is to increase the milestone by 1,564 tons of SO<sub>2</sub> (which is ok, since it is less than the maximum of 3,000 tons in Table 3 for Asarco).  
adjustment = 6.38% x baseline emissions  
adjustment = 6.38% x 23,000  
adjustment = 1,564 tons

### A3.5 Compilation of Reports

(a) The WRAP shall compile the annual emissions reports submitted by all participating states and tribes into a draft regional emission report for sulfur dioxide. The WRAP shall follow additional quality assurance procedures developed by states and tribes to identify possible errors in the emissions data, including screening for missing or added sources, name changes, and significant changes in reported emissions. Any questions or anomalies regarding [state or tribe]'s report shall be referred back to [state or tribe] for resolution prior to the submission of the draft regional emission report.

(b) By December 31 of each year, the WRAP shall submit the draft regional emission and milestone report to [state or tribe] and shall post the draft report on the WRAP website for public review. The report shall include the following information.

1. Actual regional sulfur dioxide emissions (tons/year).
2. Adjustments to account for:
  - (i) changes in flow rate measurement methods (2003-2007 reports only),
  - (ii) changes in emission monitoring or calculation methods, or
  - (iii) enforcement actions or settlement agreements as a result of enforcement actions.
3. Average adjusted emissions for the last three years (if applicable) for comparison to the regional milestone.
4. Regional milestone adjustments to account for the smelter specific set-aside.

A3.6 [State or tribe] shall evaluate the draft regional emissions report and shall propose a draft determination that the sulfur dioxide milestone has either been met in the region, or has been exceeded. In the event that the WRAP has not submitted to [state or tribe] a draft regional

emissions and milestone report by the December 31 deadline for any year, [state or tribe] shall prepare its own report for that year based upon the annual emissions reports submitted by all participating states and tribes pursuant to Section A3.5 for that year. [State or tribe] shall modify the data in these annual emissions reports, or use data where such report(s) have not been submitted, based upon direction received from the Environmental Protection Agency.

A3.7 [Insert standard public notice and comment provisions for state or tribe]. [State or tribe] shall submit the draft determination to EPA for review and comment.

A3.8 [State or tribe] shall review any comments received during the comment period, and shall submit a copy of all comments to the WRAP and to all participating states and tribes along with a response to address the comments.

A3.9 The WRAP shall compile the comments and responses from all participating states and tribes and prepare a draft final regional emissions report. The report shall be submitted to the states and tribes that are participating in the program and, if necessary, the report shall propose a common Program Trigger Date.

A3.10 [State or Tribe] shall review and approve the final regional emissions report. [State or Tribe] shall then submit this report to the Environmental Protection Agency along with a final determination that the milestone has either been met in the region, or that the milestone has been exceeded and the WEB Trading Program has been triggered in [State or tribe]. This final determination shall be submitted to the Environmental Protection Agency by the end of March fifteen months following the milestone year. The first final determination shall be due March 31, 2005 for the 2003 milestone. If the milestone has been exceeded, the common trigger date proposed in the regional report shall become the Program Trigger Date for purposes of implementing the WEB Trading Program. In the event that the Program Trigger Date must be established by [state or tribe] in the absence of a regional emissions and milestone report prepared by the WRAP, the date shall be March 31 of the applicable year.

*Note: Tribes are not required to submit a TIP by 2003 and so should choose an appropriate year for the example at the end of the above paragraph.*

A3.11 [State or tribe] shall notify the public of the final determination. This notice shall include the final calculation of the milestone and the final annual regional emissions. If the milestone has been exceeded, the notice shall include the program trigger date and the first year that WEB sources must be in compliance with the WEB Trading Program provisions outlined in Section D2 of the WEB Trading Program Rule. [State or tribe will insert standard procedures for public notification here.]

#### **A4 Year 2013 Assessment**

A4.1 Initial Assessment in 2013 Periodic SIP/TIP Review.

(a) [State or tribe] shall work cooperatively with the WRAP and other participating states and tribes to develop a projected emission inventory for SO<sub>2</sub> through the year 2018, using the 2010 regional inventory as a baseline. This projected inventory shall be included in

the 2010 annual emission and milestone report that shall be completed in March 2012 as outlined in Section A3 of this plan.

(b) [State or tribe] shall evaluate the projected inventory, and based upon this information make an assessment of the likelihood of meeting the regional milestone for the year 2018. [State or tribe] shall include this assessment as part of [state or tribe's] progress report that must be submitted by December 31, 2013, as required by 40 CFR 51.309 (d)(10).

#### A4.2 Regional Emissions Report for 2012

(a) [State or tribe] shall prepare an SO<sub>2</sub> emission report for the year 2012 by September 30, 2013 as described in Section A3.1 of this plan. [State or tribe] shall include a list of all known projects in [state or tribe] that are anticipated to affect SO<sub>2</sub> emissions in 2018. This may include permitted projects, projects that are still in the planning stage, or projections from the affected sources of anticipated emissions in 2018. The status of these projects shall be described to provide a better understanding of the degree of certainty that individual projects will be completed by 2018.

(b) The WRAP shall compile the information from all participating states and tribes, prepare draft SO<sub>2</sub> inventory projections for the year 2018, and estimate the effect of known future projects on SO<sub>2</sub> emissions. Projected 2018 emissions will be compared to the 2018 milestone. This information shall be included in the draft regional emissions report that shall be submitted to [State or tribe] by December 31, 2013, as part of the report for the year 2012, as outlined in Section A3.5 of this plan.

#### A4.3 Consensus Decision

[State or tribe] commits to meet with the participating states and tribes in March 2014 to discuss any comments received on the 2018 emission projections in the draft report. The participating states and tribes shall decide, through a consensus process, whether an early trigger of the WEB Trading Program is necessary to meet the SO<sub>2</sub> emission reduction goals in 2018.

#### A4.4 Official Trigger

If the participating states and tribes unanimously decide under Section A4.3 that an early trigger of the backstop trading program is necessary, [state or tribe] shall trigger the WEB Trading Program and the timing of various program elements shall be adjusted as follows to ensure that the WEB Trading Program is in place in 2018. The date of the consensus decision by the participating states and tribes to voluntarily trigger the WEB trading program shall become the Program Trigger Date.

(a) Allowances for 2018 shall be distributed to WEB sources by January 1, 2015.

(b) The first control period shall be the year 2018. WEB sources will need to demonstrate at the end of the first control period that they have enough allowances to cover their SO<sub>2</sub> emissions in 2018.

#### A4.5 Public Notification

[State or tribe] shall notify the public of the decision. [State or tribe shall insert individual state or tribal procedure for public notification here]. If applicable, the notification shall include a statement that the WEB Trading Program is in effect and a notification of the official program trigger date.

## **A5 Special Penalty Provisions for the 2018 Milestone**

If the WEB Trading Program is triggered as outlined in Section A of the SO<sub>2</sub> Milestones and Backstop Trading Program Implementation Plan, and the first control period will not occur until after the year 2018, a special penalty shall be assessed for the exceedance of the 2018 milestone.

Details on the penalty provisions for violation of the 2018 milestone can be found in Section M of the Model Rule. In general, the penalty involves an assessment of the minimum \$5,000 per ton of SO<sub>2</sub> emissions in excess of the WEB source's allowance limitation. The source can resolve its excess emissions violation by agreeing to a streamline settlement approach outlined in Section M1(e)(1) of the Model Rule.

The amount of the *minimum monetary* penalty in Section M of the WEB Trading Program Model Rule shall be evaluated at each five-year SIP review, and adjusted to ensure that penalties per ton substantially exceeds the expected cost of allowances to ensure that this remains a stringent penalty.

The 2018 special penalty provisions shall continue to be applied each year after 2018 until the 2018 milestone has been achieved.

## **Part B—Pre-Trigger Emissions Tracking Requirements**

### **B1 SO<sub>2</sub> Emission Inventory**

*Note: State and tribal inventory rules are highly variable, and therefore a model inventory rule to establish enforceable provisions for tracking SO<sub>2</sub> emissions was not developed. The template language in Part B of this model SIP is intended to identify the key provisions that must be included in the inventory rule, and each state and tribe should demonstrate in this section of their Implementation Plan that their inventory rules will meet these provisions. [State or tribe] should verify that their current emissions inventory rules meet minimum federal requirements.*

(a) Applicability. The inventory rule [or state or tribe equivalent] must require all stationary sources with actual emissions of 100 tons per year or more of SO<sub>2</sub> in the year 2000, or in any subsequent year, to submit an annual inventory of SO<sub>2</sub> emissions, beginning with the 2003 emission inventory. A source that meets these criteria that then emits less than 100 tons/year in a later year must still submit an SO<sub>2</sub> inventory for tracking compliance with the regional SO<sub>2</sub> milestones until the WEB Trading Program has been fully implemented, and emission tracking is occurring under Section I of [state/tribe's rule].

(b) The inventory rule [or state or tribe equivalent] must include federally enforceable provisions requiring stationary sources subject to the inventory rule to:

- (1) submit an annual inventory of SO<sub>2</sub> emissions;
- (2) document the emissions monitoring/estimation methodology used, and demonstrate that the selected methodology is acceptable under the inventory program;
- (3) include emissions from start up, shut down, and upset conditions in the annual total inventory;
- (4) use 40 CFR Part 75 methodology for reporting emissions for all sources subject to the federal acid rain program;
- (5) smelters must submit an annual report of sulfur input, in tons/year
- (6) maintain all records used in the calculation of the emissions, including but not limited to the following:
  - (i) amount of fuel consumed
  - (ii) percent sulfur content of fuel and how the content was determined
  - (iii) quantity of product produced
  - (iv) emissions monitoring data
  - (v) operating data
  - (vi) how the emissions are calculated

*Note: [State or tribe] may wish to require the sources to include in their annual emissions reports an explanation of why their emissions increased or decreased by twenty percent or more from a previous year.*

(7) maintain records of any physical changes to facility operations or equipment, or any other changes (e.g. raw material or feed) that may affect the emissions projections.

(8) retain records for a minimum of ten years from the date of establishment, or if the record was the basis for an adjustment to the milestone, 5 years after the date of an implementation plan revision, whichever is longer.

(c) [State or tribe] shall retain 2006 emission inventory records for non-utilities until the year 2018 to ensure that changes in emissions monitoring techniques can be tracked.

## **B2 Development of Emission Tracking System**

[State or tribe] shall work cooperatively with the states and tribes that are participating in the WEB Trading Program to ensure that an emission tracking system for the regional SO<sub>2</sub> inventory is developed and maintained.

### **B3 Periodic Audit of Pre-Trigger Emission Tracking Database**

During the pre-trigger phase when [state or tribe] is tracking compliance with the regional SO<sub>2</sub> milestones, [state or tribe] shall work cooperatively with the participating states and tribes to ensure that an independent audit of the tracking database is conducted to ensure that the WRAP is accurately compiling the regional emissions report. The first audit shall occur during the year 2006 and shall review data collected during the first two years of the program. Subsequent audits shall occur in 2011 (which shall cover emissions years 2005-2009) and 2016 (which shall cover emissions years 2010-2014).

The primary focus of the audit will be the process that is used to compile the regional inventory from the data provided by each state and tribe, and the tracking of accumulated changes during the period between SIP revisions. The audit shall also review the accuracy and integrity of the regional reports that are used by [state or tribe] to determine compliance with the milestones.

The audit is not intended to be a full review of [state's or tribe's] process for compiling and reporting SO<sub>2</sub> emissions, but shall include a broad review of [state or tribe] inventory management and quality assurance systems (i.e., presence and exercise of systems to assure data quality and integrity).

The audit shall discuss the uncertainty of emissions calculations, and whether this uncertainty is likely to affect the annual determination of whether the milestone is exceeded. The audit shall identify any recommended changes to emissions monitoring or calculation methods or data quality assurance systems. The audit shall also review and recommend any changes to improve the administrative process of collecting the annual emissions data at the state and tribal level, compiling a regional emission inventory, and making the annual determination of whether the WEB Trading Program has been triggered.

Changes to the WEB trading program, including any changes to the milestones, due to the results of these periodic audits shall be submitted to EPA as a SIP/TIP revision as part of the five-year SIP/TIP review required by 40 CFR 51.309(d)(10).

[State or tribe] shall provide an opportunity for public review and comment on the draft audit report following each [state or tribe] procedure. [State or tribe] shall respond to comments and provide notice of the final availability of the report. [State and tribe] shall submit the final audit report to the EPA regional office.

## **Part C—WEB Trading Program Requirements**

### **C1 Allowance Allocations**

#### **C1.1 Initial Allocation of SO<sub>2</sub> Allowances**

(a) Draft Allocation Report. Within six months of the program trigger date, as outlined in paragraph A3.11 of this plan, [state/tribe] will submit a draft allocation report to all participating states and tribes and to the TSA. This report will contain the following information:

(1) A list of all WEB sources in [state/tribe] as defined in [state/tribal trading rule] that groups the sources into two categories:

(i) Category 1: WEB sources that commenced operation prior to January 1, 2008. These sources will receive a floor allocation and will be eligible for the reducible portion of the allocation.

(ii) Category 2: WEB sources that commenced operation on January 1, 2008 or a later date. These sources will receive a floor allocation, but will not be eligible for the reducible allocation. The floor allocation for Category 2 sources will be deducted from the new source set-aside.

WEB sources that have received a retired source exemption under Section D4 of the Model Rule will be included in the allocation process in the same manner as WEB sources that are currently operating. However, sources that were permanently shut down prior to the program trigger date are not considered WEB sources under Section D1 of the Model Rule and would therefore not be included in the allocation process.

(2) The floor allocation for all WEB sources in [state/tribe].

(i) For non-utility category 1 WEB sources, the floor allocation will be as established in the E.H. Pechan Report, “Market Trading Forum Non-Utility Sector Allocation Final Report from the Allocations Working Group” (November 2002). If any additional category 1 sources are identified, [state/tribe] will calculate a floor allocation using the methodology outlined in the E.H. Pechan Report.

(ii) For utility category 1 WEB sources, the floor will be calculated by first assigning a “clean unit” emission rate to each unit. The clean unit emission rate will then be multiplied by an annual heat input (MMBtu) that represents a realistic upper bound for the unit.

(Note: The floor level approach described above is designed to address equity issues regarding the allocation process for utilities. [State/Tribe] is participating in ongoing discussions with the other participating states, tribes and regional stakeholders to ensure that all equity issues have been addressed. [State/Tribe] will work with the other participating states and tribes to ensure that the floor allocation is calculated in a consistent manner for all participants. As outlined further in this allocation methodology, the floor for both utilities and non-utilities is limited by the utility/non-utility split in Table 3. The floor allocation methodology will ensure that credits are available for early reductions and renewable energy allocations. In addition, the regional number of allowances allocated for each year cannot exceed the milestone for that year under any circumstances.)

## **Principles**

- Each unit will have enough allowances to operate as a clean source and at an operating rate (capacity factor) that is a realistic upper bound for the unit.
- There will not be significant winners and losers in this process.
- The focus is on a fair approach that is applied equally to all sources rather than on state and tribal budgets.
- The allocation process will use data that reflect current conditions, including current monitoring methodologies.

### **Equity Issues**

- Sources that are currently burning very low sulfur coal may see changes in their supply in the future. Historic actual emissions may not reflect future operations.
- Sources that are currently operating at a low utilization may not reach full capacity in the future. Assumptions about growth that are realistic on the regional level may provide a windfall to some sources, and not provide adequate allowances for other sources.
- There are some utility units in the region that are not BART-eligible and are operating at a low level of control for SO<sub>2</sub>. The relative responsibility of BART-eligible vs. non-BART-eligible is a consideration in the process.
- Sources that are operating at a high level of control are already bearing the cost of control and this affects their ability to compete in the market.
- Sources that have no SO<sub>2</sub> controls are facing a large expense that could affect their ability to continue to operate.
- Emission rate disparities exist throughout the region.

(iii) For Category 2 WEB sources the floor allocation will be the lower of the permitted SO<sub>2</sub> annual emissions for the WEB source, or SO<sub>2</sub> annual emissions calculated based on a level of control equivalent to BACT and assuming 100% utilization of the WEB source.

(3) A list of certified early reductions, expressed as tons of SO<sub>2</sub>. Early reductions will be calculated and certified as follows:

(i) Any WEB source that installs control technology and accepts new permit emissions limits that are, for a non-utility source, below its floor as established in this section, or, for a utility source, below BACT, may apply for an early reduction credit as outlined in Section G5 of the Model Rule. The credit will be available for reductions that occur between 2008 and the program trigger year.

The application must show that the floor was calculated in a manner that is consistent with the monitoring requirements of Section II(a) of the Model Rule and the new permit must contain monitoring requirements that are consistent with Section II(a) of the Model Rule. Emission units that are monitored using the less stringent monitoring requirements of Section II(b) of the Model Rule are not eligible for early reduction credits. The credits accumulate from the time the new controls come on line until the program trigger date and will be allocated to the WEB source over a 10 year period. The use of early reduction credits in any control period is limited to no more than five percent, systemwide, of the existing available allowances, as provided in paragraph C1.1(b)(5) of this plan.

(ii) [State/Tribe] will review the application and will certify early reductions for each full year between 2008 and the program trigger year that meet the requirements of Section G5 of the Model Rule and this plan.

(iii) A source's certified early reductions for all years will be added together to obtain the total certified early reductions for that source.

(4) A list of all renewable energy plants and sources in [State/Tribe] that began operation after January 1, 2008, and the MW of installed nameplate capacity for each of these resources. Renewable energy credits will be granted at a rate of 2.5 tons per MW, and will accumulate from the beginning of the facility's operation. Their use in any control period is limited to no more than five percent, systemwide, of the existing available allowances, as provided in paragraph C1.1(b)(6) of this plan.

(5) Historical SO<sub>2</sub> emissions data for all Category 1 sources for the purposes of calculating the reducible allocation.

(i) For utilities, the annual SO<sub>2</sub> emissions for the year 2006. Another time period may be used for individual emission units, if needed, to be representative of normal operating conditions.

(ii) For non-utilities, the annual SO<sub>2</sub> emissions for the year 2006.

(6) Changes due to enforcement actions or settlement agreements as a result of enforcement actions. The adjustment will be determined in accordance with paragraph A3.3(c) of this Implementation Plan. The difference between the WEB source's allocations prior to enforcement and after the enforcement action will be removed from the allocation pool.

(b) Compiled Allocation Report.

The TSA will compile the information provided by all participating states and tribes into a draft regional allocation report, and will submit this draft regional report to [state/tribe] and all participating states and tribes for review and comment thirty days after receiving the preliminary allocation reports. The draft regional allocation report will include a proposed budget for each state and tribe and the proposed allocation for each WEB source in [state/tribe].

[State/Tribe] will work closely with the other participating states and tribes to ensure that the regional allocation is distributed consistently and fairly and to address any change in status that may affect this process.

The following methodology distributes the allowances available under the milestone in the following order: tribal set-aside, new source set-aside, floor, early reduction credit, renewable energy credit, reducible allocation. The allocation process is limited by the number of allowances available under the milestone. It is not possible under this methodology to distribute more allowances than are available under the milestone. [State/Tribe] expects that there will be allowances available for all of the categories listed above. However, if at any time in the process there are not enough allowances available to fully cover a particular category, then the sources eligible for that category will receive a pro-rated allowance, and the process will stop. For example, if the renewable energy allocation is greater than the remaining available allowances under the milestone, then each of the renewable energy sources would receive a reduced renewable energy allocation, and there would be no reducible allocation.

(1) Table 3 shows the major categories that will be used to allocate allowances under the milestone. The methodology to calculate the available allocation for existing sources is described below. The milestone for the 4-state region is the starting point.

NOTE: If the milestone for a particular year is adjusted due to the smelter-specific set-aside provisions in paragraph A1.2 of this Plan, the milestone adjustment calculated in paragraph A1.2 of this Plan will be allocated to that smelter, and will be in addition to the allocations determined from the base milestone as outlined in this subsection. References to the non-utility allocation throughout the remainder of this plan will not include the potential allocation due to the smelter-specific set-aside.

Table 31. Utility/Non-utility Split

	<b>Milestone from Table 1</b>	<b>Tribal Set-Aside</b>	<b>New Source Set-aside</b>	<b>Remaining Allocation</b>	<b>Utility Portion</b>	<b>Non-utility portion</b>
2008	378,398	8,500	17,000	352,898	276,263	76,635
2009	336,160	8,500	17,000	310,660	234,025	76,635
2010	293,921	8,500	17,000	268,421	191,786	76,635
2011	293,921	8,500	17,000	268,421	191,786	76,635
2012	293,921	8,500	17,000	268,421	191,786	76,635
2013	278,985	8,500	34,000	236,485	159,850	76,635
2014	264,050	8,500	34,000	221,550	144,915	76,635
2015	249,114	8,500	34,000	206,614	129,979	76,635
2016	249,114	8,500	34,000	206,614	129,979	76,635
2017	249,114	8,500	34,000	206,614	129,979	76,635
2018	234,624	8,500	34,000	192,124	116,189	76,635

(2) Subtract the floor allocation for all WEB sources in the region that were identified as Category 2 from the new source set-aside to determine the available allocation for new sources that begin operation after the program trigger date.

This allocation methodology treats all Category 2 sources as existing sources because these sources will be operating on the program trigger date. However, the allowances for all Category 2 sources are actually drawn from the new source set-aside. If new source growth exceeds the projections used to develop this plan, it is possible that the above calculation will result in a negative number.

Therefore, to address this problem, Category 2 sources will be ranked based on the date the permit is issued for each source. Sources will then be removed from the list of Category 2 sources, starting with the most recent permit, until the new source set-aside is no longer depleted. The last source on the list will receive a partial allocation. The sources that were removed from the list will be considered new sources as described in Section C1.3 of this plan. These sources will need to purchase allowances to cover their emissions because the new source set-aside for sources that begin operation after the program trigger date would be calculated as zero until it is replenished in the next 5-year period. The allocation process for these new sources is described in Section C1.3 of this plan.

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**Example calculation of the new source set-aside.**

The example uses the following assumptions:

Emissions exceed the milestones based on an average of the years 2004-2006.

The program trigger date is March 31, 2008.

The first 5 years of the program are 2012-2015.

New sources that commenced operation between January 1, 2008 and the program trigger date have a total floor allocation of 600.

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
New Source Set-Aside	17,000	34,000	34,000	34,000	34,000
Floor for Category 2 Sources	- 600	- 600	- 600	- 600	- 600
Remaining New Source Set-aside	16,400	33,400	33,400	33,400	33,400

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(3) The remaining allocation shown in Table 3 is available for distribution to category 1 sources. The final two columns in Table 3 split this remaining allocation into a utility allocation and a non-utility allocation.

(4) Subtract the floor allocations for all category 1 utility and non-utility sources in the region from the utility allocation or the non-utility allocation.

In the unlikely event that the total floor allocation for either utility or non-utility sources submitted by the participating states and tribes exceeds the total allocation

available for that category, the TSA will notify the participating states and tribes of the discrepancy. [State/Tribe] commits to work with the participating states and tribes through a consensus process to ensure that the floor allocation has been calculated in a consistent manner for all participants and to ensure that the floor allocation does not exceed the total allocation available for that category. The total number of allowances distributed can not exceed the milestone for any given year.

(5) Calculate the early reduction allocation.

(i) Divide the number of certified early reduction credits for all WEB sources in the region by ten.

(ii) Add the utility allocation for 2018 to the non-utility allocation for 2018 and then multiply this total by 0.05.

(iii) If the product of paragraph (i) is no more than the product of paragraph (ii), the product of paragraph (i) is the early reduction allocation, and each source is allocated ten percent of its early reduction credits.

(iv) If the product of paragraph (i) is more than the product of paragraph (ii), the early reduction allocation for the region is the product of paragraph (ii). To determine a source's allocation, divide the product of paragraph (ii) by 0.10 times the total number of early reduction credits and apply that ratio to the early reduction credits claimed by the source.

(v) Split the regional early reduction allocation based on the ratio of utility to non-utility allocations in 2018 and subtract the early reduction allocation from the utility and non-utility allocation totals.

(vi) The early reduction allocation will be calculated in a similar manner for the second five-year allocation period under this program, and will then be discontinued for any future allocation periods.

(6) Calculate the regional renewable energy allocation.

(i) Add together the reported MW of installed nameplate capacity for renewable energy facilities reported by the participating states and tribes, and then multiply this number by 2.5.

(ii) Add the utility allocation for 2018 to the non-utility allocation for 2018 and then multiply this total by 0.05.

(iii) If the product of paragraph (i) is no more than the product of paragraph (ii), the product of paragraph (i) is the renewable energy allocation.

(iv) If the product of paragraph (i) is greater than or equal to the product of paragraph (ii), the renewable energy allocation for the region is the product of paragraph (ii). To determine a source's allocation, divide the product of

paragraph (ii) by the total number of renewable energy credits and apply that ratio to the early reduction credits claimed by the source.

(v) Split the regional renewable energy allocation based on the ratio of utility to non-utility allocations in 2018 and subtract the renewable energy allocation from the utility and non-utility allocation totals.

(7) Any remaining allowances in the utility allocation or the non-utility allocation after subtraction of the early reduction allocation and the renewable energy allocation is considered the reducible allocation and will be assigned to Category 1 sources.

(i) For non-utility sources, add together the historic SO<sub>2</sub> emissions in accordance with paragraph C1.1(a)(5) of this plan for all Category 1 non-utility sources in the region to determine an historic emission total. Determine a percent contribution of SO<sub>2</sub> emissions for each WEB source to the historic emission total. Multiply the non-utility reducible allocation by the percent contribution for each WEB source to determine a reducible allocation for each WEB source.

(ii) For utility sources, the reducible allocation will be distributed to sources that emitted above their floor in the baseline period (2006) based on their percentage of total floor emissions for sources emitting above the floor times the number of reducible allowances available for the first five years of the WEB Trading Program. The number of allowances for any source receiving a reducible allocation will not exceed a recent historic emission rate times a heat input that represents a realistic upper bound for the unit.

[Note: The approach for distributing the reducible utility allocation described above is designed to address equity issues regarding the allocation process for utilities. [State/Tribe] is participating in ongoing discussions with the other participating states, tribes and regional stakeholders to ensure that all equity issues have been addressed. The principles and equity issues that are under discussion are listed in paragraph C1.1(a)(2)(ii) of this plan.]

(8) Add together the floor allocation, early reduction allocation, renewable energy resource allocation, and reducible allocation for each WEB source and each renewable energy source to determine the proposed allocations for the first five years of the WEB Trading Program.

(9) Add together the proposed allocations for all of the WEB sources in the jurisdiction of each participating state and tribe to determine a draft SO<sub>2</sub> allowance budget for each state and tribe.

(c) Public Comment Period.

[State/Tribe] will publish notice of availability of the draft regional allocation report in newspapers of general circulation throughout [state/tribe]. A 30-day public comment period will be established, and a hearing will be held during the comment period. [State/Tribe] will consider the comments, and will revise the draft report if the recommended changes are consistent with the allocation process outlined in this plan.

[State/Tribe] will prepare a written response that explains why each comment has either been accepted or has been determined to be inconsistent with the allocation process outlined in this plan.

(d) Proposed Changes Submitted to Tracking System Administrator.

[State/Tribe] will submit a copy of all comments received, the response to those comments, and any proposed changes to the budget and source allocations to the TSA within sixty days of receipt of the draft regional allocation report.

(e) Compilation of Changes.

The TSA will compile the comments, responses, and proposed changes to the report and will submit a final draft regional allocation report that is consistent with the allocation methodology outlined in this plan to the executive secretary within 90 days of the receipt of the draft regional allocation report.

(f) Final Regional Allocation Report.

[State/Tribe] will review the final regional allocation report and will determine the budget for [State/Tribe] and allocations for WEB sources within [State/Tribe] in accordance with the allocation methodology outlined in this plan within thirty days of receipt of the final draft allocation report. [State/Tribe] will submit the budget and allocations for all WEB sources in [State/Tribe] to EPA, and will notify the TSA that the WEB source allocations should be recorded in the allowance tracking system.

(g) Notification.

[State/Tribe] will notify all WEB sources within [State/Tribe] of the number of allowances that have been recorded in their compliance account. The notice will include a warning to the WEB sources that reported annual sulfur dioxide emissions may change due to the implementation of new monitoring methods as required by Section I of the Model Rule. Allocations for the first five years of the program will not be adjusted to account for changes due to the new monitoring method. However, allocations during the next five-year distribution will be adjusted as needed to account for paper changes in emissions due to changes in monitoring methodology.

## C1.2 Distribution of Allowances for Future Control Periods.

By December 1 of the year five years after the initial allocation, [State or tribe] shall follow the process outlined in Section C1.1 to distribute allowances for the next five-year period. This process shall continue every five years until allowances have been allocated through the year 2018.

## C1.3 Distribution of the New Source Allocation

(a) The new source set-aside shall be available for two categories of sources.

1. New WEB sources are eligible to receive an annual floor allocation equal to the lower of the annual permitted SO<sub>2</sub> emissions for the source, or SO<sub>2</sub> annual emissions calculated based on a level of control equivalent to BACT and

assuming 100% utilization of the WEB source, beginning with the first full calendar year of operation and in accordance with the provisions of subsection G6 of the Model Rule.

2. Existing sources that increase production are eligible to receive allowances from the new source set-aside equal to:

- (i) the permitted annual sulfur dioxide emission limit for a new unit; or
- (ii) the permitted annual SO<sub>2</sub> emission increase for the WEB source due to the replacement of an existing unit with a new unit or the modification of an existing unit that increased the production capacity of the WEB source.

Permitted emission increases due to fuel switching or other process changes that are not directly related to increased production capacity are not eligible for allocations from the new source set-aside. The allocation from the new source set-aside in the first year of operation shall be adjusted to account for the number of days that the source is operating in that first year.

EXAMPLE. A new unit with a nameplate capacity of 400 MW is constructed at a power plant with two existing units with nameplate capacities of 400 MW and 300 MW. The two existing units install SO<sub>2</sub> controls and reduce emissions to meet PSD requirements for the construction of the new unit. In this example, the source would continue to receive a floor and a reducible allocation for each of the existing units, and would also be eligible to receive an allocation from the new source set-aside for the new unit. Even though total SO<sub>2</sub> emissions will decrease at this plant due to the construction of the new unit, the allowances allocated to the source will increase to reflect the increase in production capacity of 400 MW of electricity. If the new unit comes on line on July 1 the allocation for the first year shall be reduced by 50 percent because the unit was operational for half of the year.

(b) Allocations from the new source set-aside shall remain constant for the applicable WEB source and shall be made on an annual basis by March 31 of each year for the current control period. When the next five-year allocation block is distributed as outlined in Section C1.2 of this plan, all sources with an allocation under the new source set-aside shall receive a five-year allocation block from the new source set-aside, and shall continue to receive this allocation in future five-year allocation blocks.

(c) Owners or operators of new sources or modified sources that meet the eligibility requirements of C1.3(a) may apply for an allocation from the new source set-aside by submitting a written request to [state or tribe] as outlined in Section G(6) of the WEB Trading Program Rule.

(d) [State or Tribe] shall review the application for an allocation from the new source set-aside for accuracy and completeness, and shall notify the source of intent to distribute allocations from the regional new source set-aside pending verification that allowances

are available in the new source set-aside account. [State or tribe] shall then forward the request to the Tracking System Administrator.

(e) The Tracking System Administrator shall document the date that the TSA receives the request. Requests for allocation of allowances from the new source set-aside shall be processed in the order received. The Tracking System Administrator shall deduct the number of allowances requested from the regional new source set-aside that was established by the participating states and tribes in accordance with Section C1.1(b)3 of this plan, and shall then record an equal number of allowances in the source's compliance account for each remaining year of the five-year period. The Tracking System Administrator shall then send written notification to the source and to [State or tribe] that the allowances have been recorded in the source's compliance account.

(f) If the new source set-aside is depleted, the source shall need to purchase the allowances required to demonstrate compliance. Any eligible WEB source that does not receive an allocation from the new source set-aside because the set-aside was depleted shall be first in line to receive an allocation when the new source set-aside is increased in the next five-year period as outlined in Section C1.1(b)(3) of this Implementation Plan.

(g) A source that has received a retired source exemption and continues to receive an allocation as a retired WEB source shall not be eligible to receive an allocation from the new source set-aside.

#### C1.4 Regional Tribal Set-aside

(a) Each year after the program is triggered for which allowances are allocated, 8,500 allowances will exist as a tribal set-aside.

(b) The tribal caucus of the WRAP has stated its intent to determine the means for distributing the allowances among the tribes by one year after the program trigger date. [State] understands that there will be a process that shall meet the tracking and data security requirements of the allowance tracking system by which a tribe shall move its set-aside allowances into the trading program for the purposes of trading.

(c) The state recognizes that the tribal set-aside allowances are bonus allowances for the tribes and as such, are separate and additional to any allowances included in a tribal budget or the new source set-aside as outlined in the allocation report in C1.1(b)(11).

C1.5. Opt in Sources. The WRAP Market Trading Forum has recommended including provisions in this plan that would allow smaller sources to opt in to the program. Opt-in sources may provide a more cost-effective way to reduce overall regional SO<sub>2</sub> emissions, and therefore may strengthen the market incentives of this program. While the benefits of allowing sources to opt in to the program are important, the program must also provide safeguards to ensure that the integrity of the program is not affected. For example, it would be counterproductive to allow sources that were already planning to shut down to opt in to the program and then sell allowances to an existing source. In this example, regional emissions could slowly creep upward in a manner that is not consistent with the goals of the SO<sub>2</sub> milestones.

[State or Tribe] is deferring inclusion of provisions for opt-in sources until a future SIP revision to allow time to thoroughly consider how to provide the flexibility and potential benefits to the market by expanding the program while also ensuring that the SO<sub>2</sub> emission reductions goals are maintained.

## **C2 WEB Emissions and Allowance Tracking System (WEB EATS)**

*[Note: Section C1 includes a commitment to distribute the first round of allocations one year after the program is triggered. The contract for development of the ATS and ETD specifications should address whether this time frame is reasonable.]*

[State or Tribe] will provide a centralized system for the tracking of allowances and emissions within the framework of the [SIP or TIP]. The centralized system will be referred to as the WEB Emissions and Allowance Tracking System (WEB EATS). The WEB 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.

[State or Tribe] shall work cooperatively with other states and tribes participating in the WEB Trading Program to designate this system. [State or tribe] shall be responsible for ensuring that all the EATS provisions are completed as described in this plan.

The EATS will not exist unless the program is triggered. Prior to the implementation of the WEB Trading Program, a separate emissions tracking database will be employed to track the ongoing emissions of sources emitting SO<sub>2</sub> at amounts equal to or greater than 100 tons per year. The emissions tracking database, used to track and measure SO<sub>2</sub> emissions against the milestones, will still exist once the WEB Trading Program is triggered; If the program is triggered, either the emissions tracking database will be incorporated into the SO<sub>2</sub> Emissions and Allowance Tracking System, or a similar, parallel one more suitable for enforcement and program specific purposes will be developed and incorporated into the SO<sub>2</sub> Emissions and Allowance Tracking System. Both the emissions tracking database and the EATS shall be centralized systems with data posted in a format, including an electronic, Web-based program, and available to anyone.

The states and tribes shall contract with a common Tracking System Administrator to service and maintain the WEB EATS. It is envisioned that the EATS will require the use of a contracted consultant or database design engineer to create a secure, efficient and transparent tracking system. Because the EATS shall be utilized by all states and tribes participating in the program, the design will require a uniform approach and level of security that will satisfy regional needs and concerns as well as meet the electronic, Web-based, access needs and security provisions. Due to the dynamic needs of the marketplace, the EATS will require a database that will reflect the current status of allowances and allowance transactions. The EATS shall be operational within one year after the program trigger date.

Specifications of the WEB EATS such as emissions tracking, the recording of allowance transactions, account management, system integrity and transparency are described in a report prepared for the WRAP, titled “Western Emissions Backstop (WEB) Emissions and Allowance Tracking System (EATS) Analysis” (July, 2003). A copy of this report is provided in an appendix to this SIP/TIP. The report and related Sections of the WEB Trading Program Model

Rule detail how a WEB source will register for the ATS and how the source will, through an account representative, establish accounts, transfer allowances, and track unused allowances from a previous year.

Neither the [state or tribe] nor the TSA shall adjudicate any dispute concerning the authorization of any Account Representative with regard to any representation, action, inaction, or submission of the Account Representative.

As an example of how the WEB EATS will generally function, once the WEB Trading Program is triggered a WEB source will have its allowance allocation determined. On a parallel track, the WEB source's account representative will register for the EATS under Section F of the WEB Trading Program Model Rule, and a compliance account will be established under Section H of the WEB Trading Program Model Rule. Each allowance will be assigned a serial number. The allowance serial number will be used by the WEB EATS to track allowance allocations, transfers (Section J of the WEB Trading Program Model Rule), deductions, and account for any unused allowances from a previous year (Section K of the WEB Trading Program Model Rule). A serial number will also be assigned each allowance recorded in a general account, an account for allowances that are not held to meet program compliance requirements. Furthermore, the EATS will track tribal allowance set-asides and new source allowance set-asides not yet assigned to either a compliance or general account.

It is important to note that while an effort has been made in this plan to provide a design for and an operational understanding of the EATS, the components of the EATS will need to be examined and possibly altered upon each required SIP revision.

### **C3 Allowance Transfers**

Allowance transfers are defined as the conveyance from one account to another account (compliance account or general account) of one or more allowances by whatever means, including but not limited to purchase, trade, or gift in accordance with the procedures established in Section J of the WEB Trading Program Model Rule. This includes transfer of allowances for the purpose of retirement. Once an allowance is retired, it is no longer available for transfer to or from any account. Allowances may be purchased by any party for the purpose of retirement.

The Tracking System Administrator shall have specific recording requirements involving transfers. These required procedures will be detailed in the service contract but are outlined here as well.

#### **C3.1 Recording of Allowance Transfers**

Within five business days of receiving an allowance transfer, except when the transfer does not meet the requirements of this Section, the Tracking System Administrator shall record an allowance transfer by moving each allowance from the transferor account to the transferee account as specified by the request, provided that:

- (a) The transfer is correctly submitted; and
- (b) The transferor account includes each allowance identified in the transfer.

Any allowance transfer that is submitted for recording following the allowance transfer deadline and that includes any allowances allocated for a control period prior to or the same as the control period to which the allowance transfer deadline applies, shall not be recorded until after completion of the compliance account reconciliation.

Where an allowance transfer submitted for allowance transfer recording fails to meet the requirements of this Section, the Tracking System Administrator shall not record such transfer.

### C3.2 Notification of the Recording of Allowance Transfers

The Tracking System Administrator has specific responsibilities involving the notification of the recording of any transferred allowances, including the failure to record any transfer of allowances. Again, these required procedures will be outlined in the service contract, but will include what is outlined here.

(a) Within five business days of the recording of an allowance transfer, the Tracking System Administrator shall notify the Account Representatives of both the transferor and transferee accounts, and make the transfer information publicly available on the Internet.

(b) Within five business days of receipt of an allowance transfer that fails to meet the requirements of Section J of the WEB Trading Program Model Rule, the Tracking System Administrator shall notify the Account Representatives of both accounts of the decision not to record the transfer, and the reasons for not recording the transfer.

## C4 Use of Allowances from a Previous Year

### C4.1 Background

Unused allowances may be kept for use in future years in accordance with Section K of the WEB Trading Program Model Rule.

Allowances kept for use in future years may be used in calendar year 2018 only to the extent that the Implementation Plan guarantees that such allowances will not interfere with the achievement of the 2018 milestone as outlined in the Table 4: Total Amount of Allowances by Year [state or tribe may wish to insert a copy of Table 4 for illustration]. Section K.4 of the Model Rule addresses this requirement by prohibiting the use, after the year 2017, of allowances allocated for the years 2003 - 2017. This provision ensures that actual emissions will be less than the 2018 milestone because only allowances allocated for the year 2018 could be used to show compliance in that year. The provision also maintains flexibility by resetting the baseline to the year 2018 and then allowing sources to once again use extra allowances to show compliance in any future year. This flexibility is important for sources that have variable operations because the source may build up a reserve of unused allowances for use in a high production year.

The Annex explains the benefits of allowing the WEB source to tap the previous year's unused allowances, including increased flexibility and early reduction stimulus. The risk in allowing the use of allowances carried from a previous year could be an increase in emissions in later years as the unused allowances are withdrawn for compliance.

Because the regional haze SIP is based on reasonable progress requirements related to the remedying or prevention of any future visibility impairment, it is important to assure the use of these allowances will not interfere with attainment or maintenance of any reasonable progress goals. The safeguard employed here to mitigate this type of risk is termed, “flow control.”

#### C4.2 Flow Control Provisions

At the end of each control period, WEB sources may transfer allowances in and out of their compliance account for a period of 60 days to ensure that the account will contain enough allowances to cover sulfur dioxide emissions during the previous year. At the end of the sixty-day transfer period, allowances shall be deducted from the compliance account of each WEB sources in an amount equal to the sulfur dioxide emissions of that source during the control period.

After the deductions have been completed, the Tracking System Administrator shall perform the following calculations and prepare a report according to Section C7.1(b).

(a) Determine the total number of allowances remaining in the allowance tracking system that were allocated for the just completed control period and all previous control periods.

(b) If the number calculated in (a) exceeds 10 percent of the milestone for the next control period, then the flow control procedures in Section K3 of the WEB Trading Program Model Rule shall be triggered for that next control period. These flow control provisions will discourage the excessive use of allowances that were allocated for an earlier control period without establishing an absolute limit on their use. WEB sources will maintain the option to use allowances allocated for an earlier control period, but will be required to use two allowances for each ton of SO<sub>2</sub> emissions. Flow Control operates as follows:

(1) The flow control ratio shall be calculated by multiplying one tenth multiplied by the milestone for the next control period divided by the total number of unused allowances remaining in the system.

(2) To calculate the number of prior-year allowances that can be used without restriction by a source for the next control period, the TSA shall multiply them by the flow control ratio. The resulting number of allowances may be used on a one-to-one ratio to show compliance with the source’s allowance limitation as outlined in Section L.

(3) The remaining prior-year allowances may be used on a two-to-one ratio to show compliance. Thus, WEB sources will maintain the option to use allowances allocated for an earlier control period, but will be required to use two of those allowances for each ton of SO<sub>2</sub> emissions.

Example: On March 1, 2010 (the compliance transfer deadline for the 2009 control period) the Tracking System Administrator deducts allowances from the compliance account for each WEB source to cover 2009 SO<sub>2</sub> emissions from that

source. After completing these deductions, the TSA reports the following information:

Total number of allowances still in the system			
for the years 2003 – 2009	=		40,000
2010 milestone	=	293,921	
Percent of milestone	=		13.61 %

Because the number of allowances not used in previous control periods is greater than 10% of the milestone, flow control procedures are triggered. In the annual report required in C7.1(b) the TSA will then calculate the flow control ratio for 2010:

$$0.1 \times 2010 \text{ Milestone} \div \text{prior year allowances} = \text{flow control ratio}$$

$$0.1 \times 293,921 \div 40,000 = 0.73$$

On March 1, 2011 (the compliance transfer deadline for the 2010 control period) the TSA will apply the 2010 flow control ratio before deducting allowances from each WEB source's compliance account

WEB Source A	2010 Allowances	=	1,000
	Remaining Prior Year Allowances	=	600
	2010 Emissions	=	1,580

In this example, the TSA would multiply the prior year allowances by 0.73 to determine the number of prior year allowances that could be used without restriction, at a one-to-one ratio. This would equal 438. The remaining prior year allowances would then be used at a 2:1 ratio. 284 allowances would be needed to cover the remaining 142 tons of SO<sub>2</sub> emissions. The TSA would therefore deduct a total of 1,722 allowances (1,000 + 438 + 284) to cover 1,580 tons of SO<sub>2</sub> emissions.

## **C5 Monitoring and Recordkeeping**

C5.1 For WEB sources subject to 40 CFR Part 75, the EPA Administrator shall quality assure and finalize the data for submission to the Tracking System Administrator. For WEB sources subject to Appendix \_\_, the [states or tribe] shall quality assure and finalize the data in accordance with these provisions for submission to the Tracking System Administrator.

C5.2 The EPA Administrator and [states or tribe], as applicable, shall verify and submit data to the emissions tracking database as soon as reasonably feasible after annual emissions are reported by the WEB sources. *Note: these timelines will be modified, as necessary, according to the monitoring protocols.*

C5.3 Special Reserve Compliance Accounts. The WEB Trading Program requires most WEB sources to install continuous emission monitoring systems (CEMS) that meet the monitoring, recordkeeping and reporting requirements of 40 CFR Part 75. However, there are some emission units that are not physically able to install CEMS and there are also emission units that do not

emit enough sulfur dioxide to justify the expense of installing these systems (see Model Rule provision I.1(b)). The WEB Trading Program allows these emission units to continue to use their pre-trigger monitoring methodology, but does not allow the WEB source to transfer any allowances that were allocated to that unit for use by another WEB source. The restriction on transferring these allowances is needed to ensure that an emission reduction of sulfur dioxide and the corresponding increase in sulfur dioxide are equal. The allowances associated with emission units that continue to use their pre-trigger monitoring methodology are placed in a special reserve compliance account, while allowances for other emission units are placed in a regular compliance account. Allowances may not be traded out of a special reserve compliance account, even for use by emission units with CEMS at the same WEB source. However, the WEB source may use allowances in the compliance account to demonstrate compliance with the WEB source's allowance limitation.

Section I.1(b) of the Model Rule allows WEB sources with any of the following emission units to apply to establish a special reserve compliance account:

- (a) any smelting operation where all of the emissions from the operation are not ducted to a stack; or
- (b) any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery; or
- (c) any other type of unit without add-on sulfur dioxide 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.

The emission units described in (a) and (b) cannot physically be monitored using a CEM. The emission units described in (c) do not typically have add-on controls for sulfur dioxide. These units addressed in Section I.1(b) of the Model Rule are expected to operate within their floor-level allocation and therefore will not be affected by the market, unless they make a process change and wish to sell allowances on the market. Other sources that are meeting the more rigorous monitoring requirements of Model Rule provision I.1(a) and emit sulfur dioxide above their expected allocation will either need to purchase allowances or install sulfur dioxide controls. Therefore, it is important that all emission units that participate in emissions trading have an accurate monitoring methodology that is comparable to other sources in the program to ensure that a ton of reductions is the same regardless of where the reductions originate.

[State/Tribe] will review the application to monitor under section I.1(b) of the Model Rule. If the emission units meet the criteria in section I.1(b) of the Model Rule, [state/tribe] will determine the portion of the WEB source's allocation that is associated with the emission units that will be monitored under section I.1(b) of the Model Rule and will require the TSA to record that portion of the WEB source's allocation in the special reserve compliance account. [State/Tribe] will use the methodology for determining allocations described in section C1.1 of this Plan to determine the portion of the allocation that is associated with emission units monitored under section I.1(b) of the Model Rule. [State/Tribe] will notify the WEB source that the application has either been accepted or rejected, including a notification of the allowances that are to be recorded in the WEB source's regular compliance account and the special reserve compliance account.

If an emission unit that is monitored under section I.1(b) of the Model Rule is permanently retired, the TSA will transfer the portion of allowances that were associated with that emission unit from the WEB source's special reserve compliance account to the source's compliance account. These allowances will then be available for use or sale by the WEB source. The allowances will be transferred after the compliance deduction has taken place for the last control period that the unit was in operation.

## **C6 Compliance and Penalties**

### **C6.1 Compliance, Excess Emissions, and Penalties**

When a WEB source exceeds its allowance limitation in Section L of [state or tribal market trading rule], the [state or tribe] shall require the Tracking System Administrator to deduct allowances from the following year's allocation in an amount equal to three times the WEB source's emissions of SO<sub>2</sub> in excess of its allowance limitation. This deduction shall be made from the WEB source's compliance account after deductions for compliance under Section L of the WEB Trading Program Model Rule. If sufficient allowances do not exist in the compliance account for the next control period to cover this amount, [state or tribe] shall require the Tracking System Administrator to deduct the required number of allowances, regardless of the control period for which they were allocated, whenever the allowances are recorded in the account.

Under the rule, sources may also be liable for penalties for each day of violations of the program's other requirements.

## **C7 Periodic Evaluation of the Trading Program**

### **C7.1 Annual Report**

(a) One year after compliance with the trading program is required, the state shall obtain from the Tracking System Administrator an annual report that contains the following information:

1. The level of compliance program-wide;
2. A summary of the use and transfer of allowances, both geographically and temporally;
3. A source-by-source accounting of allocations compared to emissions;
4. A report on the use of unused allowances from a previous year [in order to determine whether these emissions have or have not contributed to emissions in excess of the cap.]

5. The total number of WEB sources participating in the trading program and any changes to eligible sources, such as or retired sources, or sources that emit more than 100 tons of SO<sub>2</sub> after the program trigger date.

(b) Within 10 months after the allowance transfer deadline for each control period when compliance with the trading program is required, the Tracking System Administrator shall prepare a draft report that lists:

1. the total number of allowances deducted for the control period,
2. the total number of allowances remaining in the Allowance Tracking System allocated for that control period and any earlier control period,
3. proposed determination that flow control procedures have either been triggered or have not been triggered for the next control period, and
4. if flow control procedures have been triggered, a draft flow control ratio calculated according to C4.2 of this Implementation Plan.

(c) [State or Tribe] shall evaluate the draft report, and shall propose a determination that flow control procedures have been either been triggered or have not been triggered for the next control period.

(d) [insert standard public notice and comment provisions for state or tribe]

(e) [State or Tribe} shall make a final determination that the flow control procedures have either been triggered or have not been triggered for the next control period.

## C7.2 Five-year Evaluation

(a) States and tribes shall conduct an audit of the WEB Trading Program no later than three years following the first full year of the trading program, and at least every five years thereafter. This evaluation does not supplant the Implementation Plan assessments in 2008, 2013, and 2018 as required by the regional haze regulations. The evaluation should be conducted by an independent third party and include an analysis of:

1. Whether the total actual emissions could exceed the values in Table 1 of this Implementation Plan of the WEB Trading Program even though sources comply with their allowances;
2. Whether the program achieved the overall emission milestone it was intended to reach;
3. The effectiveness of the compliance, enforcement and penalty provisions;
4. A discussion of whether states and tribes have enough resources to implement the WEB Trading Program;

5. Whether the trading program resulted in any unexpected beneficial effects, or any unintended detrimental effects;
6. Whether the actions taken to reduce sulfur dioxide have led to any unintended increases in other pollutants;
7. Whether there are any changes needed in emissions monitoring and reporting protocols, or in the administrative procedures for program administration and tracking; and,
8. 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.
9. The integrity of the emissions and allowance tracking system, including whether the procedures for recording transactions are adequate, whether the procedures are being followed and in a timely manner, whether the information on sources' emissions are accurately recorded, whether the emissions and allowance tracking system has procedures in place to ensure that the transactions are valid, whether back-up systems are in place to account for problems with loss of data.

(b) The public shall have an opportunity to participate in this trading program evaluation.

(c) In the event that any audit results in recommendations for program revisions, [state or tribe], in consultation with the WRAP, will make appropriate modifications to this plan. [State or tribe] will revise this plan if the program is not meeting its emission reduction goals.

(d) [State or tribe] shall submit a copy of the report to the EPA regional office.

### **C8 Retired Source Exemption**

Section D4 of the Model Rule outlines the procedure that a WEB source must follow to receive a retired source exemption. The exemption would allow the source to continue to receive an allocation, but would exempt the source from monitoring and recordkeeping requirements that would serve no useful function for a source that has ceased operations. The [state or tribe] shall notify the source of its obligation to apply for a retired source exemption upon the cancellation or relinquishment of a permit.

In order to receive a retired source exemption, the source must submit a request for the exemption to [state or tribe]. [State or tribe] shall review this request, and within sixty days of receipt of the request shall notify the source that the retired source exemption has been granted or has been rejected. If the exemption has been rejected, the notification shall contain an explanation of the reasons for rejecting the request.

The TSA shall record an allocation to a WEB source that has received a retired source exemption. However, the allowances shall be recorded in a general account rather than a compliance account for the source. The TSA will transfer any existing allowances in the retired source's compliance account or special reserve compliance account into the general account for the retired source, and will close the compliance accounts.

A WEB source that is retired and that does not request a retired source exemption shall forfeit all abandoned allowances in that source's compliance account, as outlined in Section D4 of the WEB Trading Program Model Rule. The forfeited allowances shall not be redistributed to other sources, and shall be retired from the Allowance Tracking System, as outlined in Section D(4)(e) of the WEB Trading Program Model Rule. During the next five-year allowance distribution period the retired source shall not receive an allocation, and the allowances that would have been distributed to that source shall be added to the new source set-aside [note: this provision needs to be ratified by the MTF].

### **C9—Integration into Federally Enforceable Permits**

It is expected that all WEB sources will at least initially be required to obtain a permit under [state or tribe's] Title V delegated permitting program. Under [cite Title V rule], [state or tribe's] delegated Title V permitting program, the pre- and post- trigger requirements of the market trading program fall under the definition of “applicable requirements”, and will be incorporated into each source's Title V permit. [State or Tribe market trading rule cite] requires that any source that for any reason and at any time is not required to have a permit under [state or tribal Title V rule] must obtain a New Source Review permit pursuant to [state or tribe New Source Review Rule] that incorporates the same requirements, and that the source must at all times possess a permit containing the program's requirements. Additionally, in order for a source permitted under Title V to become a synthetic minor source, and thus not need a Title V permit, a source first must obtain federally enforceable permit limits through a New Source Review permit, and thus there will be no gap between the effective Title V permit and the new NSR permit which contains the same market trading program requirements. Both types of permits are enforceable both federally and by citizens pursuant to [state or tribe] Implementation Plan.

## **Part D—2013 SIP/TIP Revision; Backstop for beginning of second planning period**

### **D1 Requirements of 2013 SIP Revision**

In addition to the requirements of 40 CFR 51.309(d)(10), the 2013 SIP/TIP shall contain:

1. Source specific allocations for all WEB sources under the jurisdiction of [state or tribe] for the year 2018; and

2. Either the provisions of a program designed to achieve reasonable progress for stationary sources of SO<sub>2</sub> beyond 2018 or a commitment to submit a SIP/TIP revision containing the provisions of such a program no later than December 31, 2016. The program will ensure that the requirements of 40 CFR 51.309 for the first planning period are achieved, including requirements that cannot be measured until after 2018, such as the determination of compliance with the 2018 milestone.

## **D2 Adjustments in Allocation Calculations**

This 2013 SIP revision will provide certainty to sources regarding their potential liability under the special penalty provisions for the year 2018 outlined in Section A5 of this Implementation Plan. The calculation of these allocations is delayed until 2013 to provide certainty about the number of sources that would qualify as WEB sources at that time; the allocations needed for new sources in the region; and the magnitude of renewable energy development and early reductions that would need to be included in the allocation process. It is difficult to estimate the impact of these factors in 2003 because many things may change during the next 10 years.

If the 2018 milestone is not met, the starting point for the next planning period shall be the 2018 milestones, not actual emissions in 2018.