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# ***RCRA Box 1886***

*Prepped by Ollie Stewart*

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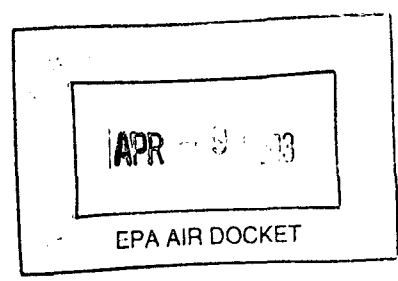
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION IX**  
75 Hawthorne Street  
San Francisco, CA 94105

April 2, 2003

MEMORANDUM

From: Lily Wong  
Rulemaking Office, Air Division

To: Docket OAR-2002-0076



The WESTAR Model Rule/MOU Workgroup was tasked by the Western Regional Air Partnership to complete the work on the draft model rule and MOU. In the course of conference calls in July and August of 2002, the Workgroup raised several issues relating to the milestones.

There is a timing issue. The states and tribes that intend to submit section 309 regional haze implementation plans by December 2003 will begin their process to adopt implementation plans in the spring and summer of 2003. At that time, it will not be clear which states and tribes have definitively decided to opt into the 309 program. Also, tribes are not subject to the December 2003 deadline and may opt in at any time. Because the milestones are based on states and tribes that have opted into the 309 program (or conversely, the emissions from a given state or tribe that has not opted into the 309 program will be deducted from the regional milestones), it is unclear what the milestones will be when the states and tribes are developing their implementation plan. Consequently, the Workgroup believed that it would be best to include all necessary information and formulas to calculate the milestone, but not specify the milestone. The actual calculation of the milestone would occur on an annual basis once it is clear which states and tribes have opted into the 309 program.

The states and tribes opting into 309 are adopting implementation plans which govern activities within their jurisdiction. The program only becomes a federally enforceable regional program when EPA approves each state and tribal implementation plan. The program includes an annual process where states and tribes are required to make a determination of the milestone for a given year, and compare regional emissions against that milestone to determine if regional emissions have exceeded the milestone. If regional emissions have exceeded the milestone, the states and tribes are required to implement the trading program. The Workgroup believed that the determination of the milestone should be based on the number of states and tribes that have

approved implementation plans by a specified date. For example, the 2003 milestone would be the 9-state regional milestone, minus all the emissions (from the state and tribal opt-out tables) from states and tribes which do not have approved 309 programs as of December 31, 2004. While the states and tribes may also compare (for informational purposes) the regional emissions to a milestone based on states and tribes that have submitted but do not have approved 309 implementation plans, such a comparison would be an academic exercise and could not be used to determine whether the backstop trading program has been triggered as required by the approved 309 implementation plans.