

more effectively and efficiently controlled at the national level and to ensure that interstate transport is addressed through SIPs or other means. We already have issued key national and regional control requirements for motor vehicles, power plants and other sources that will enable many areas to meet the 8-hour standard in the near term.

Current emissions standards for new cars, trucks and buses are reducing motor vehicle emissions of VOCs (sometimes referred to as hydrocarbons) and NO_x as older vehicles are retired. Other rules are reducing emissions from several categories of non-road engines. EPA's Tier 2 motor vehicle emission standards, together with the associated sulfur in gasoline requirements, will provide additional benefits nationally within the time period of many 8-hour ozone nonattainment areas' anticipated attainment dates (65 FR 6698, February 10, 2000). Also, we published the heavy duty diesel rule on January 18, 2001 (66 FR 5002), which will contribute to reductions needed to meet the 8-hour ozone standard in areas with later attainment dates.

In the eastern U.S., dramatic reductions in NO_x emissions from power plants and large industrial sources will occur by May 2004 under our rules to reduce interstate transport of ozone pollution in the East. These rules are the NO_x SIP Call, published October 27, 1998 (63 FR 57356), and the Section 126 Rule, published January 18, 2000 (65 FR 2674).

Also, under the requirements of section 183(e) of the CAA, we are contemplating either Federal rules or control techniques guidelines (CTGs) for controlling VOCs from 15 additional categories of consumer and commercial products. The CTGs assist States in determining required controls for facilities in nonattainment areas. The 15 categories are in addition to 6 CTGs already published under this provision of the CAA (consumer products, architectural coatings, automobile refinishing coatings, aerospace coatings, wood furniture coatings, and shipbuilding and ship repair coatings). These additional rules or CTGs are expected to be completed over the next few years.

Control measures targeting hazardous air pollutants (HAPs) also result in control of VOCs and, in some cases, NO_x. Under section 112 of the CAA, EPA was required to identify and list categories of industrial facilities that emit significant quantities of one or more of 188 HAPs and establish maximum achievable control technology (MACT) standards for each

category of sources. Because most of the organic HAPs are also VOCs, in many cases, control of organic HAP emissions also achieves reductions in VOC emissions.

Rules for most of the listed MACT categories have been promulgated. Although many of the earlier promulgated rules have already resulted in emissions reductions of VOCs, the more recent rules will not begin achieving reductions until the compliance date, which is generally 3 years following promulgation. Therefore, the amount of reductions achieved through control of HAPs that are VOCs will continue to grow over the next several years.

We see the potential for significant further emissions reductions from power plants and non-road engines at the national level. The Administration has proposed nationwide legislation, the "Clear Skies Act" (CSA), to reduce power plant emissions of NO_x nationwide, as well as sulfur dioxide and mercury. We are also proposing a national rule that would significantly reduce NO_x emissions from non-road diesel-powered equipment. These non-road sources constitute an important fraction of the NO_x emissions inventory.

D. What Is the Relationship Between the SIP System Proposed and the Proposed Clear Skies Legislation?

A basic issue for implementation of the 8-hour ozone standard is how to treat areas projected to attain the standard based on existing controls. We believe that an appropriate balance should be struck between two goals: Avoiding requirements for unnecessary additional controls that increase cost, and ensuring expeditious attainment to protect public health.

Today's proposal contains options that strive to balance these two goals under the authority of current law. The proposal contains two options for classifying areas under the 8-hour ozone standard. Both options contain features to ensure that areas projected to attain compliance in the near term based on existing requirements are not subject to additional prescribed control obligations. Of course, these areas would be subject to the same requirements that apply to all areas designated nonattainment, such as new source review (NSR) and conformity. However, we are considering options for providing for more flexible implementation of these requirements, as described elsewhere in this proposed rulemaking, and are actually proposing an option related to NSR in this proposed rulemaking.

The proposed Clear Skies legislation takes a different approach to requirements for areas projected to attain through controls that are already mandated. The proposed CSA includes a provision that would create a new designation of "transitional" for areas that are projected to attain compliance by 2015 based on existing controls, or with the aid of additional SIP controls approved by December 31, 2004. The proposed CSA provides that areas designated transitional would be subject to the requirements of the prevention of significant deterioration (PSD) program for new sources, which applies in attainment areas. Because "transitional" would be the designation for such areas, they would not be required to adopt additional control measures that would be required for areas designated nonattainment, nor would they be subject to conformity provisions. The provision includes a mid-course check to ensure that the area remains on-track toward attainment. In case of failure to attain by 2015, the area would be re-designated as a nonattainment area and would be subject to the nonattainment area requirements. We expect that most areas currently exceeding the 8-hour ozone standard could qualify for this designation, in many cases, without further local controls.

However, because the Clear Skies legislation has not been enacted, we have not considered it in this proposed rulemaking. Should the Clear Skies legislation be enacted into law, we would conduct further rulemaking on implementation of the 8-hour ozone standard under such law, if necessary.

II. What Is the Background on the 8-Hour Ozone Standard?

A. What Is the Legal Background?

On July 18, 1997, we revised the ozone NAAQS (62 FR 38856) by promulgating an ozone standard of 0.08 parts per million (ppm) as measured over an 8-hour period. At that time, we indicated that we believed that the 8-hour ozone NAAQS should be implemented under the less detailed requirements of subpart 1 of part D of title I of the CAA rather than the more detailed requirements of subpart 2. Various industry groups and States challenged EPA's final rule promulgating the 8-hour ozone NAAQS in the U.S. Court of Appeals for the District of Columbia Circuit.⁴ In May

⁴ On July 18, 1997, we also promulgated a revised particulate matter (PM) standard (62 FR 38652). Litigation on the PM standard paralleled the litigation on the ozone standard and the court issued one opinion addressing both challenges. However, issues regarding implementation of the revised PM NAAQS were not litigated.